

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Program Participation, Fee Payment and Penalties (LAC 7:XV.321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry hereby proposes to amend regulations regarding annual assessment fees and late fees for the Boll Weevil Eradication Program.

The Department of Agriculture and Forestry intends to amend these rules and regulations for the purpose of reducing the annual assessment fee of \$10 an acre to \$6 an acre and to also reduce the late fee for failure to pay all assessments from \$3 an acre to \$1.50 an acre. The operating costs for the Boll Weevil Eradication Program has fallen due to the program entering the maintenance phase for eradicating boll weevils and therefore costs less to maintain.

These Rules are enabled by R.S. 3:1607 and 1609.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§321. Program Participation, Fee Payment and Penalties

A. Upon passage of the referendum, all cotton producers growing cotton in an eradication zone shall be required to participate in the eradication program.

B. Assessments on cotton producers in the eradication zones shall be levied as follows.

1. In the Red River Eradication Zone cotton producers shall each year submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$6 per acre for each acre of certified cotton acreage on file with ASCS.

2. In the Louisiana Eradication Zone cotton producers shall each year submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act which assessment shall not exceed \$6 per acre for each acre of certified cotton acreage on file with ASCS.

B.3. - D. ...

E. Any cotton producer failing to pay all assessments by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of \$1.50 per acre.

F. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, and 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 30:

Family Impact Statement

The proposed amendments to Rules LAC XV.321 regarding the Boll Weevil Eradication Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through March 25, 2004, to Dr. John Andries, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Program Participation, Fee Payment and Penalties

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated implementation costs or savings to state or local governmental units. The operating costs for the Boll Weevil Eradication Program has declined due to the program entering the maintenance phase for eradicating boll weevils and therefore costs less to maintain.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be a decrease in revenue collections to state and local government units. The Boll Weevil Eradication Commission intends to reduce the annual assessment fee of \$10 an acre for the Red River Zone and \$15 an acre for the Louisiana Zone to \$6 an acre and to also reduce the late fee for failure to pay all assessments from \$3 an acre to \$1.50 an acre.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a reduction in costs and an increase in economic benefits to directly affected persons or non-governmental groups due to the decrease in assessment and penalty fees associated with the boll weevil eradication program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public and private sectors.

Skip Rhorer

Assistant Commissioner
0402#054

Robert E. Hosse

General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Testing Procedures and Quarantines of Pet Turtles (LAC 7:XXI.Chapter 23)

Editor's Note: This Notice of Intent is being repromulgated to correct errors, it was originally promulgated in the January 20, 2004 issue of the *Louisiana Register* on pages 103-104.

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry proposes to amend regulations regarding microbiological testing procedures and quarantines for the farming and selling of Louisiana pet turtles.

The Department of Agriculture and Forestry is amending these rules and regulations to enhance the accuracy and consistency of the testing for salmonella by requiring that all follow up testing of positive samples be done by the same state operated reference laboratory; thereby providing maximum protection for the industry and the public in the production of a safe wholesome product and to further assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella* spp.

This Rule comply with and are enabled by R.S. 3:2358.2. No preamble concerning the proposed Rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 23. Pet Turtles

§2311. Microbiological Test Procedures

A. - B. ...

C. If any group of turtles or turtle eggs test positive for *Salmonella* spp, the owner of each such group may request that the group be tested again for *Salmonella* spp. Any such request must be made within seven days of the date the quarantine is issued. The owner may request a retest of the group as a whole using the same sampling procedures as used for the original test or the owner may subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested. The Louisiana Veterinary Medical Diagnostic Laboratory shall conduct the retesting, whether from the group as a whole or from any of the subgroups in accordance with normal protocol. The Louisiana Veterinary Medical Diagnostic Laboratory test results, whether from the group as a whole or from any of the subgroups shall be the final and conclusive test results. Any group or subgroup that tests positive for *Salmonella* spp shall be disposed of in accordance with the law and these regulations.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:351 (April 1991) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:

§2315. Quarantine

A. - A.3. ...

4. All groups of turtles or groups of turtle eggs that are found to be positive for *Salmonella* spp shall be quarantined and disposed of as provided by law and these regulations unless a second test has been timely requested by the owner. In the event that a second test has been timely requested by the owner then the group, if tested as a whole, or any subgroup that test positive for *salmonella* spp in the second test shall be disposed of in accordance with the law and these regulations within 21 days after the second test results are obtained.

5. Quarantined eggs or turtles shall be subject to identification, inventory and verification by agents of the department. Records, physical examination and photographs may be used to verify the inventory of quarantined eggs or turtles.

6. - 6.b. ...

7. All turtles and/or eggs belonging to a group which has either received a second notice of contamination with harmful bacteria or otherwise ordered disposed of by the department shall be disposed of in a manner approved by the department within 21 days of the receipt of the second notice.

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:

§2321. Proper Disposal

A. Because of the danger posed by the emergence of bacteria resistant to antibiotics used to kill *Salmonella* and other harmful bacteria, licensed pet turtle farmers shall follow approved disposal procedures including but not limited to the following.

1. Eggs or turtles that have been found to contain *Salmonella*, Arizona or other harmful bacteria shall be disposed of in a manner approved by the department.

2. Chlorine or antibiotic solutions shall be disposed of in a manner approved by the department.

B. Dead or deformed turtles and also those turtles not sold within 12 months of certification shall be disposed of in a manner as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), LR 30:

Family Impact Statement

The proposed Rules in Part XXI. Chapter 23, Pet Turtles should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation,

stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Dr. Maxwell Lea through the close of business on March 26, 2004 at 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble regarding these Rules is necessary.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Testing Procedures and
Quarantines of Pet Turtles**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs or savings to state or local governmental units are anticipated. The Department of Agriculture and Forestry is amending these rules and regulations to enhance the accuracy and consistency of the testing for *Salmonella spp* by requiring that all follow up testing of positive samples be done by the same state operated reference laboratory; thereby providing maximum protection for the industry and the public in the production of a safe wholesome product and to further assist the industry in its efforts to lift the FDA ban that was imposed on the sale of pet turtles in the United States and to increase the industry's ability to control *Salmonella spp*.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is estimated to be no effect on revenue collections of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental units, other than any indirect benefit that comes from enhanced health and safety requirements.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed amendments are not anticipated to have an effect on competition and employment other than any indirect benefit that comes from enhanced health and safety requirements.

Skip Rhorer
Assistant Commissioner
0402#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of the Commissioner
Office of the Louisiana Seed Commission**

**Sugarcane (Tissue Culture) Certification Standards
(LAC 7:XIII.207)**

Editor's Note: This Notice of Intent was promulgated in the January 20, 2004 issue of the *Louisiana Register* on pages 104-105 and is being repromulgated for corrections

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, proposes to amend regulations governing sugarcane (tissue culture) certification standards.

The Louisiana Seed Commission, at the request of the sugarcane industry, is proposing to amend the Rules regarding sugarcane (tissue culture) certification standards to include Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellow Leaf Virus testing to prevent the introduction and spread of these potential harmful diseases into Louisiana sugarcane. These Rules are also being amended to reduce the tolerances for other varieties, Sugarcane Borer and Johnson grass within a certified seed cane field, to bring these tolerances in line with current acceptable industry levels.

These Rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

**§207. Sugarcane (Tissue Culture) Certification
Standards**

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

a. Foundation stock shall be tested on a yearly basis for Sugarcane Ratoon Stunting Disease by the LSU Ag Center Sugarcane Disease Detection Lab based on the protocol provided by the lab. The applicant for certification shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for Sugarcane Ratoon Stunting Disease (RSD)

2. – 4.b ...

B. Field Inspections. At least four field inspections shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

a. Collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus shall be made at the 3rd inspection.

b. Individual fields shall be sampled by Louisiana Department of Agriculture & Forestry inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

c. Tissue samples shall be submitted to the LSU Ag Center Sugarcane Disease Detection Lab for analysis.

d. The department shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for sugarcane yellow leaf virus prior to certification.

C. Land Requirements. The land shall be followed one summer from the previous crop.

D. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds:			
Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
Harmful Diseases:			
Sugarcane Yellow Leaf Virus*	None	10.00%	10.00%
Sugarcane Mosaic Virus**	None	10.00%	10.00%
Sugarcane Smut**	None	0.50%	0.50%
Harmful Insects:			
Sugarcane Borer***	None	5.00%	5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab.			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Office of the Louisiana Seed Commission, LR 30:

Family Impact Statement

The proposed amendments to Title 7 Part XIII. §207, regarding sugarcane (tissue culture) certification standards, should not have any known or foreseeable impact on any family as defined by R. S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

All interested persons may submit written comments on the proposed Rules through March 26, 2004, to Eric Gates,

Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above. No preamble concerning the proposed Rules is available

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Sugarcane (Tissue Culture) Certification Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated.

The Louisiana Seed Commission, at the request of the sugarcane industry, is proposing to amend the Rules regarding sugarcane (tissue culture) certification standards to include Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellow Leaf Virus testing to prevent the introduction and spread of these potential harmful diseases into Louisiana sugarcane. These Rules are also being amended to reduce the tolerances for Other Varieties, Sugarcane Borer and Johnson grass within a certified seed cane field, to bring these tolerances in line with current acceptable industry levels.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is estimated to be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments are not anticipated to have an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0402#053

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Retesting Standards

The State Civil Service Commission will hold a public hearing on Wednesday, March 3, 2004, to consider the following Rule proposal. The hearing will begin at 9 a.m. and will be held in the Louisiana Purchase Room, Suite 1-100, Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

The following will be considered at the meeting.

Current Rule

7.4 Minimum Qualifications and Retest Eligibility Standards

(a) - (c) ...

(d) An applicant who is admitted to a continuously open Civil Service written test series, except those covered

by Rule 7.4(d) 2 may test up to three (3) times for the same test series in any twelve (12) month period provided at least four (4) weeks have elapsed from the date he or she last took that examination. The applicant's official grade shall be the most recent examination.

Proposed Amendment to Rule 7.4(d)

(d) An applicant who is admitted to a continuously open Civil Service written test series, except those covered by Rule 7.4(d)2 may test up to three times for the same test series in any twelve-month period provided at least four weeks have elapsed from the date he or she last took that examination. When an applicant repeats a test, the applicant's official grade shall be the highest grade obtained on the examination.

Explanation

This proposed provision allows candidates to keep their highest grade earned on a written examination, rather than their most recent test score earned.

Family Impact Statement

The proposed Civil Service Rule change will have no impact upon:

1. the effect on the stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Persons interested in making comments relative to this proposal may do so at the public hearing or by writing to the Director of State Civil Service at Post Office Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Allen H. Reynolds
Director

0402#019

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School Administrators? High School Diploma and Endorsements (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its October, 2003 meeting approved revisions to Standard 2.099.02 of the *Louisiana Handbook for School Administrators: Bulletin 741* to add two additional courses to the list of courses meeting the requirement for one unit in Computer Technology. These courses are Computer Technology I and Computer Technology II. Also, the policy

is corrected to add a line of text that was inadvertently left off the last time this policy was revised.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

2.099.02 High School Diploma and Endorsements Standard Diploma

Incoming freshmen 2003-2004 and thereafter meeting the Minimum Requirements for High School Graduation listed below and the requirements listed in 2.099.00 and 2.099.01, and completing four Carnegie units in an area of concentration, including one course that incorporates computer applications, shall be eligible for a standard diploma. An area of concentration shall be courses selected to prepare students for postsecondary education and/or a career.

The 23 units required for graduation shall include 16 required units and 7 elective units; the elective units can be earned at technical colleges as provided in Standard 2.103.35.

Academic Endorsement

Students meeting the requirements for a standard diploma, and satisfying the following performance indicators shall be eligible for an academic endorsement to a standard diploma:

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award.

2. Students shall complete one additional Carnegie unit in mathematics, science, or social studies.

3. Students shall pass all four components of the GEE 21 with a score of Basic or above, or one of the following combinations of scores with the English Language Arts score at Basic or above:

?? One Approaching Basic, 1 Mastery or Advanced, Basic or above in the remaining two

?? Two Approaching Basic, 2 Mastery or above.

4. Students shall complete one of the following requirements:

?? Senior Project

?? One Carnegie unit in an AP course with a score of 3 or higher on the AP exam

?? One Carnegie unit in an IB course with a score of 4 or higher on the IB exam

?? Three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English Language Arts.

5. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

6. Students shall achieve an ACT Composite Score of 23.

Career/Technical Endorsement

Students meeting the requirements for a standard diploma, and satisfying the following performance indicators shall be eligible for a career/technical endorsement to a standard diploma:

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award or the TOPS Tech Award.

2. Students shall pass the English Language Arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.

3. Students shall complete a minimum of ninety work hours of work-based learning experience (as defined in the SDE Diploma Endorsement Guidebook) and complete one of the following requirements:

?? Industry-based certification from the list of industry-based certifications approved by BESE

?? Three Carnegie credits in a Career/Technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waved from having to take such hours.

Industry-based certification is a portable, recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work-related tasks, single occupational area, or a cluster of related occupational areas.

Articulated credit/dual enrollment is a program of study allowing high school students to earn credits toward a high school diploma and a postsecondary degree or certification simultaneously. Written agreements formalize programs of study, the transfer of academic and vocational credits among institutions, and the role of secondary and postsecondary instructors.

4. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

5. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

Minimum Requirements for High School Graduation
(Effective for Incoming Freshmen 2003-2004 and thereafter)

ENGLISH 4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.

MATHEMATICS 3 units
Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics

SCIENCE 3 units

Shall be 1 unit of Biology I;

1 unit of Physical Science or Integrated Science (but not both), or Chemistry I, Physics I, or Physics of Technology I;

1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience I, Agriscience II, or any other course not already taken from the Physical Science cluster, or a locally designed elective.

?? If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as the required science course. If a student takes Chemistry I, Physics I, or Physics of Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as the third required science course but may take such courses as one of the eight allowed elective graduation requirements.

?? Both Agriscience I and II must be completed for one unit of science credit.

All Advanced Placement Science Courses will be accepted for credit.

SOCIAL STUDIES 3 units

Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization.

HEALTH EDUCATION 1/2 unit

PHYSICAL EDUCATION 1 1/2 units

Shall be Physical Education I and Physical Education II, or Adaptive Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

COMPUTER TECHNOLOGY 1 unit

Shall be taken from the following:

Computer/Technology Literacy (1/2 credit)

Computer Applications or Business Computer Applications (1 credit)

Computer Architecture (1 credit)

Computer Science I, II (1 credit each)

Computer Systems and Networking I, II (1 credit each)

Desktop Publishing (1/2 credit)

Digital Graphics & Animation (1/2 credit)

Multimedia Presentations (1 credit)

Web Mastering or Web Design (1/2 credit)

Independent Study in Technology Applications (1 credit)

Word Processing (1 credit)

Telecommunications (1/2 credit)

Introduction to Business Computer Applications (1 credit)

Technology Education Computer Applications (1 credit)

Advanced Technical Drafting (1 credit)

Computer Electronics I (1 credit)

Computer Electronics II (1 credit)

ELECTIVES 7 units

TOTAL 23 units

Refer to Standards 2.037.02 and 2.058.02 relative to appropriate student scheduling and counseling.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., April 10, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: *Bulletin 741? Louisiana Handbook for School Administrators? High School Diploma and Endorsements*

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 741, the Louisiana Handbook for School Administrators, would be revised to add two additional courses to the list of courses meeting the requirement for one unit in Computer Technology. This policy change will not involve any implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0402#091

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

*Bulletin 741? Louisiana Handbook for School
Administrators? Membership in Teachers' Retirement
System of Louisiana? Part-Time, Seasonal, or Temporary
Classroom Teacher (LAC 28:I.901)*

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its meeting in December, 2003 approved a definition of a classroom teacher for the purposes of membership in Teachers' Retirement System of Louisiana. This change was required by Act 640 of the 2003 Regular Legislative Session and signed by the governor.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

2.018.00 Membership in Teachers' Retirement System of Louisiana Part-Time, Seasonal, or Temporary Classroom Teacher

A. R.S. 11:162(C) provides that membership in Teachers' Retirement System of Louisiana shall be required of part-time, seasonal, or temporary employees, as defined in 26 CFR 31.3121 (b)(7)-2, who are classroom teachers and who have or earn five or more years of creditable service in the Teachers' Retirement System of Louisiana.

B. Classroom Teacher

1. For the purposes of R.S. 11:162(C), classroom teacher shall mean:

An employee of a city, parish, or other local public school board or special school under the control of the State Board of Elementary and Secondary Education or any educational institution supported by and under the control of the State Board of Elementary and Secondary Education, or any city or parish school board:

a. Whose job description and assigned duties include the instruction of pupils in courses in traditional or

nontraditional classroom situations for which daily pupil attendance figures for the school system are kept; and

b. Who is classified under Object Code 112, as provided in Bulletin 1929, Louisiana Administrative Code Title 28, Part XLI, §901.B.1.b, or is performing the functions, on a substitute basis, of an individual classified under Object Code 112.

2. Instruction of pupils, as used in Subparagraph (B)(1)(a), shall include activities dealing directly with the interaction between teachers and pupils. Instruction may be provided for pupils in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. Instruction may also be provided through some other approved medium such as television, radio, telephone, and correspondence.

3. Classroom teachers shall include, but not be limited to, traditional subject area, special education, library media, resource, itinerant, music, band, chorus, physical education, home economics, agriculture, industrial arts, computer science, and business teachers.

4. A teacher's status as an "employee," as used in Paragraph (B)(1), shall be consistent with the employment classification made by his or her employing agency, pursuant to applicable law.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No.

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule effect the functioning of the family? No.

4. Will the proposed Rule effect family earnings and family budget? No.

5. Will the proposed Rule effect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., April 10, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741? Louisiana Handbook for School Administrators? Membership in Teachers' Retirement System of Louisiana? Part-Time, Seasonal, or Temporary Classroom Teacher

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 741, the Louisiana Handbook for School Administrators, would be revised to add a definition of a classroom teacher for the purpose of membership in Teachers' Retirement System of Louisiana. This policy change will not involve any implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0402#088

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for School
Administrators? Record of Suspensions or Expulsions
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed change would add the words "suspended" or "suspension" in each reference related to the transfer of a student's school disciplinary records. The proposed changes are being requested to bring the Board of Elementary and Secondary Education Policy in line with the new provision under *No Child Left Behind* that require states to put procedures in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, when a student enrolls in another public or private school.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations**

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

System Policies and Standards

Record of Suspensions or Expulsions

1.060.07 Any student who has been suspended or expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission information on the dates of any suspension or expulsion and the reason(s) for which the student was suspended or expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled.

Refer to R.S. 17:416 (B)(3).

School Policies and Standards

Record of Suspensions or Expulsions

2.060.07 Any student who has been suspended or expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission information on the dates of any suspension or expulsion and the reason(s) for which the student was suspended or expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled.

* * *

Family Impact Statement

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed rule? Yes.

Interested persons may submit comments until 4:30 p.m., April 10, 2004, to: Nina Ford, State Board of Elementary

and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741? Louisiana
Handbook for School Administrators
Record of Suspensions or Expulsions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed change will affect school records transfer policies. There is no estimated cost to state or local governmental units to implement the policy change.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed change may reduce the number students who cause discipline problems in schools because the disciplinary records will follow students to any school in which enrollment is requested. This may increase the amount of time students spend learning skills that will help to create a more highly educated and highly skilled workforce.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Employers will have a more disciplined and skilled pool from which to select potential employees.

Marlyn Langley
Deputy Superintendent
Management and Finance
0402#090

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741? Louisiana Handbook for
School Administrators? Social Studies
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741? The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its October 2003 meeting approved revisions to Standard 2.105.21 of the *Louisiana Handbook for School Administrators: Bulletin 741* to add the requirement that the course of Free Enterprise include instruction in personal financial literacy. This change was required by Louisiana Senate Bill 38 which was passed in 2003 and signed by the governor.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

Social Studies

2.105.21 Three units of social studies shall be required for graduation. They shall be American History; 1/2 unit of Civics and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. The social studies course offerings shall be as follows:

Course Title	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise System	1
Law Studies	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1
Economics may be taught by a teacher certified in business education.	

Beginning with the 2004-2005 school year, Free Enterprise shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

- ?? Income
- ?? Money management
- ?? Spending and credit
- ?? Savings and investing.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., April 10, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741? Louisiana Handbook
for School Administrators Social Studies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Bulletin 741, the Louisiana Handbook for School Administrators, would be revised to stipulate that the course of Free Enterprise should include instruction in personal financial literacy. This policy change will not involve any implementation costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
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H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification
of School Personnel? Mild/Moderate Special Education
Certification Structure for Undergraduate Programs
(LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy provides a new undergraduate certification program structure for Special Education Mild to Moderate Disabilities. The structure is a result of Blue Ribbon Commission teacher quality initiatives and aligns policy with the No Child Left Behind Act of 2001. This action aligns the Twelve-Hour Rule Policy with

the No Child Left Behind Act of 2001 and continues the state's Blue Ribbon Commission for Teacher Quality initiatives.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117-119 (February 2003), LR 29:119-121 (February 2003), LR 29:121-123 (February 2003), LR 30:

* * *

New Certification Structure

Recommended Changes For Mild/Moderate Programs Level 1 (Initial) Certification

1. Ensure that all teacher education programs address the attached competencies (See Appendix A) within each pathway to certification in mild/moderate disabilities.
2. Use a performance-based model that aligns Council of Exceptional Children (CEC), National Council for Accreditation of Teacher Education (NCATE), Louisiana Teacher Assistance and Assessment Program (LATAAP), and Louisiana Components of Effective Teaching (LCET) standards in special education certification with the ten Interstate New Teacher Assessment and Support Consortium (INTASC) Core Principles for all special education teacher candidates.
3. Require the local education agency to partner with cooperating universities to support and provide certification efforts including supervision of clinical/applied and/or school-based hours; technical assistance, induction, and evaluation for employed teachers on provision licenses.
4. Hold universities accountable for the competencies/standards and outcomes, but allow flexibility in the design, implementation, and scheduling of certification programs.
5. Piggyback/integrate general/special education sooner. Articulation between/among the departments in colleges of

education (example: behavior management could be taught across the curriculum).

6. Develop a mentor model that would begin early in the preparation program to model "good teaching practices" for special education pre-service level students.

7. Ensure that higher education faculty communicate or pass on the "culture" of active learning/retraining IHE professionals. Include teaching using universal design intertechnology and modeling new technical methods.

8. Support teacher education programs to use data related to reflections on practice to assist revision of the program of study.

9. Have the universities recommend that teachers be issued Level 1 Teaching Certificates when they have met state certification requirements and hold the universities accountable for the success of the teachers that they recommend for certification. This would eliminate the need for the Louisiana Department of Education to count hours on transcripts and allow the department to become more involved in providing support to universities to improve the quality of teacher preparation programs. (Note: The Louisiana Department of Education would still continue to review transcripts and issue certificates to out-of-state teachers.)

Level 2 Certification

1. Require all new teachers to receive mentoring during their first year of the Louisiana Teacher Assistance and Assessment Program and have them undergo the assessment during the second year with a person certified in the specialized area of certification.
2. Require all teachers to pass the teacher assessment and teach for a total of three years before being issued a Level 2 teaching certificate. During this time teachers will develop a professional development plan to continue the lifelong learning process. The hours/courses taken during this time should expand the knowledge of the teachers in a specific targeted area related to their area of certification.
3. Do not allow for the addition of an area of special education certification based upon the passage of the content Praxis examination alone.
4. Require all new teachers to undergo a predetermined amount of professional development during a five year time period in order to have their teaching certificates renewed for 5 years. Have the Louisiana Department of Education develop the details for the professional development system during 2002-2003.

Mild/Moderate Special Education Undergraduate Program For Grades Pk-3, Grades 1-5, Grades 4-8, Grades 6-12

Effective August 1, 2005

Mild/Moderate Special Education Undergraduate Program Structure		Mild/Moderate Special Education Grades PK-3	Mild/Moderate Special Education Grades 1-5	Mild/Moderate Special Education Grades 4-8	Mild/Moderate Special Education Grades 6-12
General Education Coursework	English	12 hours	12 hours	12 hours	6 hours
	Mathematics	9 hours	12 hours	12 hours	6 hours
	Sciences	9 hours	15 hours	15 hours	9 hours
	Social Studies	6 hours	12 hours	12 hours	6 hours
	Arts	3 hours	3 hours	3 hours	3 hours
FOCUS AREA SPECIAL EDUCATION & CONTENT		Special Education & Young Child	Special Education & Reading/Language Arts & Mathematics	Special Education & One Middle School Content Area	Special Education & One High School Content Area
		Special Education Focus Area: A total of 18 hours of special education coursework.* Reading/Language Arts Focus Area: A total of 12 hours of content/methodology. Mathematics Focus Area: A total of 9 hours of content/methodology. Early Childhood Focus Area: A total of 12 hours in nursery school and kindergarten.	Special Education Focus Area: A total of 18 hours of special education coursework.* Reading/Language Arts Focus Area: A total of 12 hours of content/methodology. Mathematics Focus Area: A total of 9 hours of content/methodology	Special Education Focus Area: A total of 18 hours of special education coursework.* One Middle School Content Focus Area: A total of 19 hours in one of the following content areas: Mathematics, English, Science, or Social Studies. (Note: General Education coursework may be used to create the 19 hours.)	Special Education Focus Area: A total of 18 hours of special education coursework.* One High School Content Focus Area: A total of 31 hours in one content area (Note: General Education coursework may be used to create the 31 hours.)
Knowledge of the Learner and the Learning Environment	Child Development/Psychology, Adolescent Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, and Multicultural Education	15 hours	15 hours	15 hours	15 hours
Methodology and Teaching	Reading			6 hours	3 hours
	Teaching Methodology and Strategies	6 hours (Science & Social Studies must be addressed.)	6 hours (Science & Social Studies must be addressed.)	6 hours	6 hours
	Student teaching**	9 hours	9 hours	9 hours	9 hours
Flexible Hours for the University's Use***		4 hours	1 hour	9-12 hours	12-21 hours
TOTAL HOURS		124 hours	124 hours	124 hours	124 hours

Note: If students do not possess basic technology skills, they should be provided coursework or opportunities to develop those skills early in their program.

* Program must address the mild/moderate special education competencies identified in Appendix A.

** Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis.

*** In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Appendix A

Competencies: Mild/Moderate Disabilities

Reference: CEC Performance Based Standards and Review Procedures

Standard 1: Foundations

Special educators understand the field as an evolving and changing discipline based on philosophies, evidence-based principles and theories, relevant laws and policies, diverse and historical points of view, and human issues that have historically influenced and continue to influence the field of special education and the education and treatment of individuals with exceptional needs both in school and society. Special educators understand how these influence professional practice, including assessment, instructional planning, implementation, and program evaluation. Special educators understand how issues of human diversity can impact families, cultures, and schools, and how these complex human issues can interact with issues in the delivery of special education services. They understand the relationships of organizations of special education to the organizations and functions of schools, school systems, and other agencies. Special educators use this knowledge as a ground upon which to construct their own personal understandings and philosophies of special education.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure the knowledge and skills of connection and crossover between general education and special education personnel preparation.

Standard 2: Development and Characteristics of Learners

Special educators know and demonstrate respect for their students first as unique human beings. Special educators understand the similarities and differences in human development and the characteristics between and among individuals with and without exceptional learning needs (ELN)¹. Moreover, special educators understand how exceptional conditions can interact with the domains of human development and they use this knowledge to respond to the varying abilities and behaviors of individual's with ELN. Special educators understand how the experiences of individuals with ELN can impact families, as well as the individual's ability to learn, interact socially, and live as fulfilled contributing members of the community.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Extend the knowledge and skills of the Individualized Family Service Planning as students age to begin earlier transition planning. Ensure knowledge and skills of transition planning for each school change (e.g., preschool to elementary, elementary to middle/junior high, junior high to high school).

Standard 3: Individual Learning Differences

Special educators understand the effects that an exceptional condition² can have on an individual's learning in school and throughout life. Special educators understand that the beliefs, traditions, and values across and within cultures can affect relationships among and between students, their families, and the school community. Moreover, special educators are active and resourceful in seeking to understand how primary language, culture, and familial backgrounds interact with the individual's exceptional condition to impact the individual's academic and social abilities, attitudes, values, interests, and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which special educators individualize instruction to provide meaningful and challenging learning for individuals with ELN.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and use of the *General Education Access Guide*. Also ensure use of instructional technology for all students. Include skills and knowledge of diversity issues as a critical part of individual learning differences.

Standard 4: Instructional Strategies

Special educators possess a repertoire of evidence-based instructional strategies to individualize instruction for individuals with ELN. Special educators select, adapt, and use these instructional strategies to promote challenging learning results in general and special curricula³ and to appropriately modify learning environments for individuals with ELN. They enhance the learning of critical thinking, problem solving, and performance skills of individuals with ELN, and increase their self-awareness, self-management, self-control, self-reliance, and self-esteem. Moreover, special educators emphasize the development, maintenance, and generalization of knowledge and skills across environments, settings, and the lifespan.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and skills of research-based diagnostic and prescriptive approaches to teaching reading and mathematics.

Standard 5: Learning Environments and Social Interactions

Special educators actively create learning environments for individuals with ELN that foster cultural understanding, safety and emotional well being, positive social interactions, and active engagement of individuals with ELN. In addition, special educators foster environments in which diversity is valued and individuals are taught to live harmoniously and productively in a culturally diverse world. Special educators shape environments to encourage the independence,

self-motivation, self-direction, personal empowerment, and self-advocacy of individuals with ELN. Special educators help their general education colleagues integrate individuals with ELN in regular environments and engage them in meaningful learning activities and interactions. Special educators use direct motivational and instructional interventions with individuals with ELN to teach them to respond effectively to current expectations. When necessary, special educators can safely intervene with individuals with ELN in crisis. Special educators coordinate all these efforts and provide guidance and direction to paraeducators and others, such as classroom volunteers and tutors.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and use of technology/assistive technology and universal design.

Standard 6: Language

Special educators understand typical and atypical language development and the ways in which exceptional conditions can interact with an individual's experience with and use of language. Special educators use individualized strategies to enhance language development and teach communication skills to individuals with ELN. Special educators are familiar with augmentative, alternative, and assistive technologies to support and enhance communication of individuals with exceptional needs. Special educators match their communication methods to an individual's language proficiency and cultural and linguistic differences. Special educators provide effective language models, and they use communication strategies and resources to facilitate understanding of subject matter for individuals with ELN whose primary language is not English.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge of typical and atypical language development, language models, and communication strategies.

Standard 7: Instructional Planning

Individualized decision-making and instruction is at the center of special education practice. Special educators develop long-range individualized instructional plans anchored in both general and special curricula. In addition, special educators systematically translate these individualized plans into carefully selected shorter-range goals and objectives taking into consideration an individual's abilities and needs, the learning environment, and a myriad of cultural and linguistic factors. Individualized instructional plans emphasize explicit modeling and efficient guided practice to assure acquisition and fluency through maintenance and generalization. Understanding of these factors as well as the implications of an individual's exceptional condition, guides the special educator's

selection, adaptation, and creation of materials, and the use of powerful instructional variables. Instructional plans are modified based on ongoing analysis of the individual's learning progress. Moreover, special educators facilitate this instructional planning in a collaborative context including the individuals with exceptionalities, families, professional colleagues, and personnel from other agencies as appropriate. Special educators also develop a variety of individualized transition plans, such as transitions from preschool to elementary school and from secondary settings to a variety of postsecondary work and learning contexts. Special educators are comfortable using appropriate technologies to support instructional planning and individualized instruction.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and skills of student-centered planning and instruction.

Standard 8: Assessment

Assessment is integral to the decision-making and teaching of special educators and special educators use multiple types of assessment information for a variety of educational decisions. Special educators use the results of assessments to help identify exceptional learning needs and to develop and implement individualized instructional programs, as well as to adjust instruction in response to ongoing learning progress. Special educators understand the legal policies and ethical principles of measurement and assessment related to referral, eligibility, program planning, instruction, and placement for individuals with ELN, including those from culturally and linguistically diverse backgrounds. Special educators understand measurement theory and practices for addressing issues of validity, reliability, norms, bias, and interpretation of assessment results. In addition, special educators understand the appropriate use and limitations of various types of assessments. Special educators collaborate with families and other colleagues to assure non-biased, meaningful assessments and decision-making. Special educators conduct formal and informal assessments of behavior, learning, achievement, and environments to design learning experiences that support the growth and development of individuals with ELN. Special educators use assessment information to identify supports and adaptations required for individuals with ELN to access the general curriculum and to participate in school, system, and statewide assessment programs. Special educators regularly monitor the progress of individuals with ELN in general and special curricula. Special educators use appropriate technologies to support their assessments.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special emphasis: None added

Standard 9: Professional and Ethical Practice

Special educators are guided by the profession's ethical and professional practice standards. Special educators practice in multiple roles and complex situations across wide age and developmental ranges. Their practice requires ongoing attention to legal matters along with serious professional and ethical considerations. Special educators engage in professional activities and participate in learning communities that benefit individuals with ELN, their families, colleagues, and their own professional growth. Special educators view themselves as lifelong learners and regularly reflect on and adjust their practice. Special educators are aware of how their own and others attitudes, behaviors, and ways of communicating can influence their practice. Special educators understand that culture and language can interact with exceptionalities, and are sensitive to the many aspects of diversity of individuals with ELN and their families. Special educators actively plan and engage in activities that foster their professional growth and keep them current with evidence-based best practices. Special educators know their own limits of practice and practice within them.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special emphasis: Require a professional development plan for teacher candidates with a yearly professional growth target that will focus on specific competencies of the needs of students with mild/moderate disabilities (e.g., intensive levels of support for students with moderate disabilities, emotional behavioral disabilities, sensory disabilities, severe learning disabilities, technology/assistive technology).

Standard 10: Collaboration

Special educators routinely and effectively collaborate with families, other educators, related service providers, and personnel from community agencies in culturally responsive ways. This collaboration assures that the needs of individuals with ELN are addressed throughout schooling. Moreover, special educators embrace their special role as advocate for individuals with ELN. Special educators promote and advocate the learning and well being of individuals with ELN across a wide range of settings and a range of different learning experiences. Special educators are viewed as specialists by a myriad of people who actively seek their collaboration to effectively include and teach individuals with ELN. Special educators are a resource to their colleagues in understanding the laws and policies relevant to Individuals with ELN. Special educators use collaboration to facilitate the successful transitions of individuals with ELN across settings and services.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special emphasis: Ensure knowledge and skills of collaboration and advocacy with families. Ensure the university, LEA, and teacher candidate know and understand how students with disabilities can access and make progress

within the general education curriculum with instructional strategies/adaptations/accommodations/modifications.

1. "Individual with exceptional learning needs" is used throughout to include individuals with disabilities and individuals with exceptional gifts and talents.
2. "Exceptional Condition" is used throughout to include both single and co-existing conditions. These may be two or more disabling conditions or exceptional gifts or talents coexisting with one or more disabling condition.
3. "Special Curricula" is used throughout to denote curricular areas not routinely emphasized or addressed in general curricula, e.g., social, communication, motor, independence, self-advocacy.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit comments until 4:30 p.m., April 10, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746? Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This policy provides a new undergraduate certification program structure for Special Education Mild to Moderate Disabilities. The structure is a result of Blue Ribbon Commission teacher quality initiatives and aligns policy with the No Child Left Behind Act of 2001. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0402#092

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Reading Competencies Policy for Alternate Certification Programs (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This new Bulletin 746 policy adds a requirement for demonstration of reading competencies by alternate teacher certification program completers, as required by Act 28 of the 2003 Legislative Session.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119-121 (February 2003), LR 29:121, 23 (February 2003), LR 30:

* * *

Louisiana Alternate Certification Programs

Practitioner Teacher Program Alternative Path to Certification

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education). The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

1. Admission to the Program. Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals should:

a. Possess a baccalaureate degree from a regionally accredited university.

b. Have a 2.50 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.20. (Note: State law requires that upon completion of the program, the teacher candidate has a 2.50 GPA for certification.)

c. Pass the PRAXIS Pre-Professional Skills Test (e.g., reading, writing, and mathematics). (Individuals who already possess a graduate degree will be exempted from this requirement.)

d. Pass the PRAXIS content specific examinations:

(1). Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

(2). Candidates for Grades 4-8 (regular and special education): pass the *Middle School: Content Knowledge* specialty examination;

(3). Candidates for Grades 7-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

(4). Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

e. Meet other non-course requirements established by the college or university.

2. Teaching Preparation (Summer)

9 credit hours (or equivalent 135 contact hours)

All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).

Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.

Mild/Moderate Special Education 1-12 practitioner teachers will successfully complete courses (or equivalent contact hours) that focus on special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

All-Level K-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child and adolescent psychology, the diverse learner, classroom management and organization, assessment, instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships.

3. Teaching Internship and First-Year Support

12 credit hours (or equivalent 180 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers provided by the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and principals. Note: For all-level areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

4. Teaching Performance Review (End of First Year)

Program providers, principals, mentors, and practitioner teachers will form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the assessment part of the Louisiana Teacher Assistance and Assessment Program.)

If weaknesses are cited, teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15 to 135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, teams will determine whether practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.

5. Prescriptive Plan Implementation (Second Year)

1-9 credit hours (15 to 135 contact hours)

Practitioner teachers who demonstrate areas of need will complete prescriptive plans.

6. Louisiana Assessment Program (Second Year)

Practitioner teachers will be assessed during the fall or later, depending upon their teaching proficiencies.

7. PRAXIS Review (Second Year)

Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.

8. Certification Requirements

(Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met with these three years.)

Private providers and colleges or universities will submit signed statements to the Louisiana Department of Education that indicate that the student completing the *Practitioner Teacher Program* alternative certification path met the following requirements:

A. Passed the PPST components of the PRAXIS (Note: This test was required for admission.)

B. Completed the Teaching Preparation and Teaching Internship segments of the program with an overall 2.50 or higher GPA.'

C. Passed the Louisiana Teacher Assistance and Assessment Program.

D. Completed prescriptive plans (if weaknesses were demonstrated).

E. Passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.)

1). Grades 1-6 (regular and special education): Elementary Education: Content Knowledge Examination #0014

2). Grades 4-8 (regular and special education): Middle School: Content Knowledge specialty examination

3). Grades 7-12 (regular and special education): PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. (Note: This examination was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.)

4). All-Level K-12 areas (art, dance, foreign language, health and physical education, and music): Content specialty examination in area(s) in which candidate intends to teach. (Note: This examination was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.) Provider must develop a process to assure that candidates for all-level certification demonstrate necessary performance skills in the area of certification.

F. Passed the *pedagogy* examination (PRAXIS)

a. Grades PK-3: Principles of Learning and Teaching K-6

b. Grades 1-6: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 7-12 and All-Level K-12 Certification: Principles of Learning and Teaching 7-12

e. Mild/Moderate Special Education 1-12: special education examinations (to be determined)

G All candidates entering an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

9. Ongoing Support (Second and Third Year)

Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.

10. Professional License (Practitioner License to Level 2)

Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching, they will be eligible for a Level 2 license.

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

Masters Degree Program

Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. The college or university may choose to offer the masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, 1-6, 4-8, 7-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.
2. Have a 2.50 GPA, or higher, on undergraduate work.
3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS (Individuals who already possess a graduate degree will be exempted from this requirement.)
4. Pass the PRAXIS content-specific subject area examination:
 - a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;
 - b. Candidates for Grades 1-6 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;
 - c. Candidates for Grades 4-8 (regular and special education): pass the Middle School: *Content Knowledge* specialty examination;
 - d. Candidates for Grades 7-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.
 - e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.
5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Knowledge of Learner and the Learning Environment
15 credit hours

Grades PK-3, 1-6, 4-8, and 7-12: Child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

All-Level (grades K-12): Child and adolescent psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies, across grade levels K-12

2. Methodology and Teaching

12-15 credit hours

Methods courses and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Student Teaching or Internship

6-9 credit hours

NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

Total: 33-39 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Masters Degree Program* alternative certification path met the following requirements:

1. Passed PPST components of the PRAXIS. (Note: This test was required for admission.)
2. Completed coursework (undergraduate and masters program) with an overall 2.50 or higher GPA.
3. Passed the specialty examination (PRAXIS) for the area of certification. (Note: This test was required for admission.)
 - a. Grades PK-3 (regular and special education): *Elementary Education: Content Knowledge (#0014)* specialty examination
 - b. Grades 1-6 (regular and special education): *Elementary Education: Content Knowledge (#0014)* specialty examination
 - c. Grades 4-8 (regular and special education): *Middle School: Content Knowledge* specialty examination
 - d. Grades 7-12 (regular and special education) and All-Level K-12 Certification: *Specialty content examination in areas to be certified.* (Note: This examination was required for admission.) If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.
4. Passed the *pedagogy* examination (PRAXIS)
 - a. Grades PK-3: Principles of Learning and Teaching K-6
 - b. Grades 1-6: Principles of Learning and Teaching K-6
 - c. Grades 4-8: Principles of Learning and Teaching 5-9
 - d. Grades 7-12 and All-Level K-12 Certification: *Principles of Learning and Teaching 7-12*
 - e. Mild/Moderate Special Education 1-12: special education examinations (to be determined)
5. All candidates entering an alternate certification program after May 1, 2004, will be required to demonstrate

proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Non-Masters/Certification-Only Program

Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. A college or university may offer this program only in those certification areas in which that institution has a State-approved teacher education program. Non-Master's/ Certification-Only Programs may offer certification in PK-3, 1-6, 4-8, and 7-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university;
2. Have a 2.20 GPA, or higher, on undergraduate coursework. [An overall 2.50 GPA is required for certification; those candidates with a GPA lower than 2.50 may have to take additional courses in the program to achieve a 2.50 GPA];
3. Pass the PRAXIS Pre-Professional Skills Test (PPST) (Individuals who already possess a graduate degree will be exempted from this requirement.); and
4. Pass the PRAXIS content-specific subject area examination:
 - a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;
 - b. Candidates for Grades 1-6 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;
 - c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School: Content Knowledge* specialty examination;
 - d. Candidates for Grades 7-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.
 - e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate

New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment*

12 hours

Grades PK-3, 1-6, 4-8, and 7-12: Child or adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment, instructional design, and reading/instructional strategies that are content- and level-appropriate.

Mild/Moderate Special Education 1-12: Special needs of the Special Education Mild/Moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for Special Education Mild/Moderate exceptional children, vocational and transition services for students with disabilities.

All-Level K-12 Areas: Child psychology and adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design, and reading/instructional strategies across grade levels K-12.

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

2. Methodology and Teaching

6 hours

Methods courses to include case studies and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Internship or Student Teaching

6 hours

Will include methodology seminars that are participant-oriented. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), internship or student teaching experiences should be provided across grades K-12.

4. Prescriptive Plan

1-9 hours

The prescriptive plan can be pre-planned courses for individual programs or can be individualized courses for the candidate who demonstrates areas of need, not to exceed 9 semester hours.

Total 24-33 hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education that indicate the student completing the Non-Master's/Certification-Only alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (*Note: This test was required for admission.*) (Individuals who already possess a graduate degree will be exempted from this requirement).
2. Completed all coursework (including the certification program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area(s) of certification. (*Note: This test was required for admission.*)

a. Grades PK-3: Elementary Education: Content Knowledge (#0014) specialty examination

b. Grades 1-6: Elementary Education: Content Knowledge (#0014) specialty examination

c. Grades 4-8: Middle School: *Content Knowledge* specialty examination

d. Grades 7-12 and All-Level K-12 Certification: *Specialty content examination in areas to be certified.* (*Note: This test was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.*)

4. Passed the *pedagogy* examination (PRAXIS)

a. Grades PK-3: Principles of Learning and Teaching K-6

b. Grades 1-6: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 7-12 and All-Level K-12 Certification: *Principles of Learning and Teaching 7-12*

e. Mild/Moderate Special Education 1-12: special education examinations.

5. All candidates entering an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Deadline Dates For Louisiana Alternate Programs

No students should be accepted into an old post-baccalaureate alternate certification program in the areas of PK-3, 1-5, 4-8, 6-12, and mild/moderate special education after Spring Semester 2003. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2006, to complete their programs.

No students should be accepted into an old post-baccalaureate alternate certification program in the all-level (K-12) areas of art, dance, foreign language, H&PE, and music after Spring Semester 2004. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2007, to complete their programs.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

Please respond to the following:

1. Will the proposed rule affect the stability of the family? No

2. Will the proposed rule affect the authority and rights or parents regarding the education and supervision of their children? No

3. Will the proposed rule affect the functioning of the family? No

4. Will the proposed rule affect family earnings and family budget? No

5. Will the proposed rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed rule?

Interested persons may submit comments until 4:30 p.m., April 10, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746? Louisiana Standards for State Certification of School Personnel Reading Competencies Policy for Alternate Certification Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This new Bulletin 746 policy adds a requirement for demonstration of reading competencies by alternate teacher certification program completers, as required by Act 28 of the 2003 Legislative Session. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0402#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Contingency Plan for NO_x Emissions
(LAC 33:III.2201 and 2202)(AQ239)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been

initiated to amend the Air regulations, LAC 33:III.2201 and 2202 (Log #AQ239).

The proposed Rule revises LAC 33:III.Chapter 22 emission factors for industrial boilers and stationary gas turbines in the five-parish Baton Rouge ozone nonattainment area. The revised emission factors will be triggered or implemented should the Baton Rouge ozone nonattainment area fail to achieve attainment with the one-hour ozone air quality standard by the Clean Air Act statutory attainment date of November 15, 2005. The Rule, if implemented, will lower NO_x emissions by approximately 3,000 tons annually. On April 24, 2003, the Environmental Protection Agency reclassified or "bumped up," by operation of law, the Baton Rouge ozone nonattainment area from a classification of "serious" to "severe," effective June 23, 2003 (68 FR 20077). The five-parish Baton Rouge ozone nonattainment area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Under Section 182(c)(9) of the 1990 Clean Air Act, area plans must include requirements for contingency provisions to take effect without further action by the state upon a failure by the state to meet the applicable milestone. This Rule contains such contingency provisions, which will take effect in the event that the Baton Rouge ozone nonattainment area fails to come into compliance with the one-hour National Ambient Air Quality Standard for ozone by the attainment date. The Rule will be included in a revision to the attainment State Implementation Plan (SIP) that must be submitted to the Environmental Protection Agency by June 23, 2004. Failure to promulgate the proposed rule to establish the contingency provisions would cause the SIP submittal to be deemed incomplete. The basis and rationale for this proposed Rule are to comply with the provisions of the 1990 Clean Air Act Amendments.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge

Nonattainment Area and the Region of Influence

A. - C.20. ...

D. Emission Factors

1. Except as provided in LAC 33:III.2202, the following tables list NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 40 to <80 MMBtu/Hour	0.50 pound/MMBtu
	>= 80 MMBtu/Hour	0.21 pound/MMBtu

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Number 6 Fuel Oil-fired	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 40 to <80 MMBtu/Hour	0.18 pound/MMBtu
	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 5 to <10 MW	0.37 pound/MMBtu
	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 5 to <10 MW	0.27 pound/MMBtu
	>= 10 MW	0.20 pound/MMBtu
All Others	>= 5 to <10 MW	0.24 pound/MMBtu
	>= 10 MW	0.16 pound/MMBtu
Stationary Internal Combustion Engines:		
Lean-burn	>= 150 to <320 Hp	10 g/Hp-hour
	>= 320 Hp	4 g/Hp-hour
Rich-burn	>= 150 to <300 Hp	2 g/Hp-hour
	>= 300 Hp	2 g/Hp-hour

^a based on the higher heating value of the fuel.

^b equivalent to 65 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

^c equivalent to 43 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

Table D-1B. Emission Factors for Sources in the Region of Influence		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 10 MW	0.20 pound/MMBtu
All Others	>= 10 MW	0.16 pound/MMBtu
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4 g/Hp-hour
Rich-burn	>= 300 Hp	2 g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 43 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

D.2 - I.5. ...

J. Effective Dates

1. Except as provided in LAC 33:III.2202, the owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or NO_x monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. Except as provided in LAC 33:III.2202, the owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO_x reduction controls or a NO_x monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:

§2202. Contingency Plan

A. This Section shall become effective only in the event that the United States Environmental Protection Agency (EPA) determines and notifies the department in accordance with Section 181(b)(2) of the Clean Air Act as amended [42 USC 7511(b)(2)] that the Baton Rouge Nonattainment Area has failed to attain the 1-hour ozone National Ambient Air Quality Standard (NAAQS) by its appropriate attainment deadline (November 15, 2005, for areas classified as "severe") or any extension of the deadline approved by the EPA in accordance with Section 181(a)(5) of the Clean Air Act as amended [42 USC 7511(a)(5)].

B. Emission Factors. The emission factors for the sources listed below in Table B-1 shall supersede the factors for the like sources in Table D-1A of LAC 33:III.2201.D.1. All requirements of LAC 33:III.2201 shall remain applicable to such sources, except as superseded by this Section.

Table B-1. Contingency Plan Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Industrial Boilers	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines (except peaking)	>= 10 MW	0.092 pound/MMBtu

^abased on the higher heating value of the fuel.

C. Effective Dates

1. An owner or operator of a source subject to an emission factor provided in Table B-1 of Subsection B of this Section shall comply with such emission factor as expeditiously as possible, but not later than two years after determination and notification by the EPA in accordance with Subsection A of this Section.

2. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a

timely manner, but by no later than 30 months after determination and notification by the EPA in accordance with Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:

A public hearing will be held on March 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the SIP to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith Schuerman at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ239. Such comments must be received no later than April 2, 2004, at 4:30 p.m., and should be sent to Judith Schuerman, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ239.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

James H. Brent, Ph.D.

Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Contingency Plan for NO_x Emissions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no known implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State government emissions fee collections are estimated to be reduced by approximately \$40,000 per year, due to the reductions of about 3,000 tons per year of NO_x that will result from the proposed Rule. This would not take effect until about 2008 depending on various circumstances. There is no effect on local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that this proposed rule will affect about 26 facilities that operate industrial boilers and stationary gas turbines in the Baton Rouge ozone nonattainment area. Estimated total costs for all 26 facilities are in the \$3 to \$20 million range. The final costs will depend on the type of technology that each facility will need to install in order to comply with the proposed Rule. It is possible that some facilities may be able to use equipment already installed to meet the proposed requirements in which case their costs would be relatively minor. Other facilities may find it necessary to purchase additional equipment, which could entail substantial costs. For these reasons there is considerable variation in the cost estimate. This cost will only be incurred if the proposed Rule is required to be implemented.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Because of the potentially high implementation costs some facilities may shut down, thus affecting competition and employment.

James H. Brent, Ph.D.
Assistant Secretary
0402#035

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Fugitive Emission Control
(LAC 33:III.2121 and 2122)(AQ237)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2121 and 2122 (Log #AQ237).

This proposed Rule updates the state fugitive emission control regulations to clarify requirements for instrumentation systems, designate "no detectable emissions" (NDE) valves, and allow for alternate monitoring for flanges. The changes make the state regulations more consistent with federal fugitive control regulations, particularly the Maximum Achievable Control Technology (MACT) standards of 40 CFR 63. This Rule adopts the definition of instrumentation system included in the Synthetic Organic Chemical Manufacturing Industry Hazardous Organic NESHAP (SOCMI HON) MACT (40 CFR 63, Subpart H). The proposed changes are not required by a federal regulation and do not alter the position of these fugitive emission control regulations in the Stringency Table of the Louisiana Fugitive Emission Program Consolidation Guidelines. The regulated community asked for an update to the state fugitive air emission control regulations, particularly to make fugitive component definitions and applicability more consistent with the federal regulations for Leak Detection and Repair (LDAR) programs, such as the MACT standards of 40 CFR 63. This Rule is also being proposed as a revision to the Louisiana State Implementation Plan (SIP) for air quality. The basis and rationale for this

proposed Rule are to improve the permitting of fugitive air emissions regulated under LAC 33:III.2121 and 2122.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2121. Fugitive Emission Control

A. Applicability. This regulation is applicable to equipment in petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that are intended to operate in VOC service 300 hours or more during the calendar year:

- a. pumps;
- b. compressors;
- c. pressure relief devices;
- d. open-ended valves or lines;
- e. process drains;
- f. valves;
- g. agitators;
- h. instrumentation systems; and
- i. connectors.

B. - C.3.b. ...

c. Any valve that is designated for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of Clauses C.1.b.ii and iv and C.2.b.ii of this Section if the valve:

- i. has no external actuating mechanism in contact with the process fluid (e.g., diaphragm valves, sealed bellows valves);
- ii. is operated with emissions less than 500 ppm above background as measured in accordance with this Section; and
- iii. is tested for compliance with Clause C.3.c.ii of this Section initially upon designation and annually thereafter.

C.4. - F.4. ...

G Definitions. Terms used in this Section are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Instrumentation System? a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow). Valves and connectors are the predominant types of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems. Only valves nominally 0.5 inch and smaller and connectors nominally 0.75 inch and smaller in diameter are considered instrumentation systems for the purposes of

these regulations. Valves greater than nominally 0.5 inch and connectors greater than nominally 0.75 inch associated with instrumentation systems are not considered part of instrumentation systems and must be monitored individually.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1433 (July 2000), LR 26:1433 (July 2000), LR 26:2452 (November 2000), LR 30:

§2122. Fugitive Emission Control for Ozone

Nonattainment Areas and Specified Parishes

A. Applicability

1. This regulation is applicable to each process unit at petroleum refineries, natural gas processing plants, the synthetic organic chemical manufacturing industry (SOCMI), the methyl tertiary butyl ether (MTBE) manufacturing industry, and the polymer manufacturing industry that contains any of the following components that are intended to operate in VOC service 300 hours or more during the calendar year:

- a. pumps;
- b. compressors;
- c. pressure relief devices;
- d. open-ended valves or lines;
- e. process drains;
- f. valves;
- g. agitators;
- h. instrumentation systems; and
- i. connectors.

2. - 6.d. ...

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Instrumentation System? a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow). Valves and connectors are the predominant types of equipment used in instrumentation systems; however, other types of equipment may also be included in these systems. Only valves nominally 0.5 inch and smaller and connectors nominally 0.75 inch and smaller in diameter are considered instrumentation systems for the purposes of these regulations. Valves greater than nominally 0.5 inch and connectors greater than nominally 0.75 inch associated with instrumentation systems are not considered part of instrumentation systems and must be monitored individually.

* * *

C. Fugitive Emission Control Requirements

1. Leak Limitations

a. No component in petroleum refineries, SOCMI, MTBE, and polymer manufacturing industry shall be allowed to leak volatile organic compounds exceeding an instrument reading of 1,000 ppmv or greater for valves,

connectors, instrumentation systems, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).

b. No component in natural gas processing plants shall be allowed to leak volatile organic compounds exceeding an instrument reading off of 2,500 ppmv for valves, connectors, instrumentation systems, pressure relief devices, process drains, and open-ended valves and lines; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003).

C.1.c - C.3. ...

4. Percent of leaking components at a process unit shall be determined for a test period as follows:

$$\% C_{lv} = [C_{lv}] / [C_{tv}] * 100\% \quad \text{Eq. 1}$$

where:

% C_{lv} = percent of leaking valves, flanges, or pumps.

C_{lv} = number of valves, flanges, or pumps found leaking during the monitoring period.

C_{tv} = total number of valves, flanges, or pumps monitored during the period.

5. Total percent of leaking and unrepairable components shall be determined as follows:

$$\% C_{tlvp} = [C_{tlv}] / [C_{ttv} = C_{tvp}] * 100\% \quad \text{Eq. 2}$$

where:

% C_{tlvp} = total percent of leaking and unrepairable valves, flanges, or pumps.

C_{tlv} = number of valves, flanges, or pumps found leaking or defined as unrepairable.

C_{ttv} = total number of valves, flanges, or pumps tested during the period.

C_{tvp} = total number of valves, flanges, or pumps which were defined as unrepairable.

D. - D.1.c. ...

d. Monitor all flanges in accordance with either Clause D.1.d.i or ii of this Section.

i. Inspect all flanges weekly by visual, audible, and olfactory means.

ii. Monitor all flanges four times per year (quarterly) using a leak detection device as follows.

(a). Either two hundred or 10 percent, whichever is less, of the flanges shall be monitored each period in accordance with a written sampling plan.

(b). The sampling plan shall ensure that at least 66 percent of the flanges monitored each period shall not have been previously monitored, until all flanges within the process have been monitored.

e. Inspect weekly, by visual, audible, and olfactory means, all instrumentation systems.

f. Records of the visual, audible, and olfactory inspections of connectors and instrumentation systems are not required unless a leak is detected.

2. - 3.d. ...

e. Any valve that is designated for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the

requirements of Clauses D.1.b.iii and v and D.2.b.ii of this Section if the valve:

i. has no external actuating mechanism in contact with the process fluid (e.g., diaphragm valves, sealed bellows valves);

ii. is operated with emissions less than 500 ppm above background as measured in accordance with this Section; and

iii. is tested for compliance with Clause D.3.e.ii of this Section initially upon designation and annually thereafter.

4. - 5. ...

E. Alternate Control Techniques. The monitoring schedule in Subsection D of this Section may be modified as follows.

1. - 1.f. ...

g. Existing equipment that has been monitored under LAC 33:III.2121 for fugitives at the leak definition of 10,000 ppmv can initially elect to use this alternate standard if the unit has data documented with the department by either January 1, 1996, or for the 12 months prior to becoming subject to this Section, that indicates the percent of leaking valves (Eq. 1) is less than or equal to a 2.0 percent leak rate at 10,000 ppmv for the required time period.

2. ...

3. Alternate Standards for Flanges Subject to Clause D.1.d of this Section? Skip Period Leak Detection and Repair

a. An owner or operator may elect to comply with one of the alternative work practices specified in Clause E.3.b or Paragraph E.4 of this Section. However, the administrative authority* must be notified in writing before implementing one of the alternative work practices.

b. After four consecutive quarterly leak detection periods with the percent of leaking flanges (Eq. 1) equal to or less than 1.0, an owner or operator may begin to skip three of the quarterly leak detection periods for the flanges in gas/vapor and light liquid service.

c. If the percent of leaking flanges (Eq. 1) is greater than 1.0, or the total percent of leaking and unrepairable flanges (Eq. 2) is greater than 2.0, the owner or operator shall comply with the requirements as described in Subsection D of this Section but subsequently can again elect to use this Subsection when the requirements are met.

d. The percent of leaking flanges (Eq. 1) shall be determined by dividing the sum of components found leaking during the current monitoring period by the total number of flanges that were tested and multiplying the results by 100 percent.

e. An owner or operator must keep a record of the percent of flanges found leaking during each leak detection period and the total percentage of leaking and unrepairable flanges.

4. Alternative Standards for Flanges? Increased Monitoring Frequency. If the percent of leaking flanges (Eq. 1) in a test period is greater than 1.0, or the total percent of leaking and unrepairable flanges (Eq. 2) is greater than 2.0, then an increase in the frequency of monitoring may be required by the administrative authority*.

5. Alternate Standard for Batch Processes. As an alternate to complying with the requirements in Subsection D of this Section an owner or operator of a batch process in

VOC service may elect to comply with one of the following alternative work practices. The batch product-process equipment shall be tested with a gas using the procedures specified in Subparagraph E.5.a of this Section or with a liquid as specified in Subparagraph E.5.b of this Section.

a. The following procedures shall be used to pressure test batch product-process equipment using a gas (e.g., air or nitrogen) to demonstrate compliance.

i. The batch product-process equipment train shall be pressurized with a gas to the operating pressure of the equipment. The equipment shall not be tested at a pressure greater than the pressure setting of the lowest relief valve setting.

ii. Once the test pressure is obtained, the gas source shall be shut off.

iii. The test shall continue for not less than 15 minutes, unless it can be determined in a shorter period of time that the allowable rate of pressure drop was exceeded. The pressure in the batch product-process equipment shall be measured after the gas source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using the following equation:

$$\frac{P}{t} = \frac{P_f - P_i}{t_f - t_i}$$

Eq.3

where:

P/t = change in pressure, psia/hr.

P_f = final pressure, psia.

P_i = initial pressure, psia.

t_f - t_i = elapsed time, hours.

iv. The pressure shall be measured using a pressure measurement device (gauge, manometer, or equivalent) that has a precision of ±2.5 millimeters (±0.05 psig) of mercury in the range of test pressure and is capable of measuring pressures up to the relief set pressure of the pressure relief device.

v. A leak is detected if the rate of change in pressure is greater than 6.9 kPa (1 psig) in one hour or if there is visible, audible, or olfactory evidence of fluid loss.

b. The following procedures shall be used to pressure test batch product-process equipment using a liquid to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be filled with the test liquid (e.g., water, alcohol). Once the equipment is filled, the liquid source shall be shut off.

ii. The test shall be conducted for a period of at least 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

iii. Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

iv. If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before VOCs are fed to the equipment.

v. If the batch product-process equipment fails the retest or the second of two consecutive pressure tests, it

shall be repaired as soon as practicable, but not later than 30 calendar days after the equipment is placed in VOC service.

F. - G.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1764 (August 2002), LR 30:

A public hearing will be held on March 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the SIP to incorporate this proposed Rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith Schuerman at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ237. Such comments must be received no later than April 2, 2004, at 4:30 p.m., and should be sent to Judith Schuerman, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ237.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fugitive Emission Control

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units to implement this Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Economic benefits, if any, will be minor. Fugitive emissions at industrial facilities that are monitored under a Leak Detection and Repair (LDAR) program for compliance with these rules are often administered by outside contractors. Monitoring of fugitive leaks quarterly under the new definition and applicability of instrumentation systems may save, for example, approximately \$1,200 per year for a typical large chemical plant spending approximately \$50,000 annually for contracted leak detection monitoring. Other changes in the Rule, e.g., the option of monitoring flanges using a leak detector, instead of visually, would increase the cost of a monitoring contract; however, this would be a voluntary cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition since all facilities must follow the same rules. There is no effect on employment.

James H. Brent, Ph.D.
Assistant Secretary
0402#037

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference? 2003
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(OS053*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #OS053*).

This proposed Rule is identical to federal regulations found in 10 CFR 71, Appendix A, January 1, 2003 and 40 CFR Parts 117.3, 136, 266, Appendices HX and XI-XIII, 302.4, 401, and 405-471, July 1, 2003, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed Rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding regulations in 10 CFR 71, Appendix A, January 1, 2003 and 40 CFR Parts 117.3, 136, 266, Appendices I-IX and XI-XIII, 302.4, 401, and 405-471, July 1, 2003. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation,

authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this proposed Rule are to mirror the federal regulations in order to maintain equivalency.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3, July 1, 2003, Table 117.3? Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4, July 1, 2003:

A.2.a. - B.Note @. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I, J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2003, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, 2003, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2003, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and 3099.Appendix E, respectively.

Appendix E. Risk Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2003, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2003, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2003, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2003, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2003, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2003, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2003, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:

Part IX. Water Quality
Subpart 2. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program
Chapter 23. Definitions and General LPDES Program
Requirements

§2301. General Conditions

A - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2003 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2003, in its entirety, and amendments to Part 136 in 68 FR 43271-43283, July 21, 2003, and 68 FR 54934, September 19, 2003, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:

§4903. 40 CFR Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2003, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), LR 30:

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A, January 1, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:

A public hearing will be held on March 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral

comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith Schuerman at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS053*. Such comments must be received no later than March 26, 2004, at 4:30 p.m., and should be sent to Judith Schuerman, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS053*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0402#033

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Notification Requirements for Unauthorized Discharges (LAC 33:I.3903, 3915, 3917, 3919, 3923, 3925, 3931, 6919, and 6923; III.1105, 1513, 2103, 2115, 2303, 2307, 2719, and 5107; V.1109, 1913, 2271, 2805, 2909, 4101, 4107, 4211, 4241, and 5309; VI.201; VII.315, 711, 713, and 715; IX.503 and 2701; XI.707, 713, and 715; and XV.341, 485, 486, 487, 492, 712, and 2051)(OS052)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3903, 3915, 3917, 3919, 3923, 3925, 3931, 6919, and 6923; III.1105, 1513, 2103, 2115, 2303, 2307, 2719, and 5107; V.1109, 1913, 2271, 2805, 2909, 4101, 4107, 4211, 4241, and 5309; VI.201; VII.315, 711, 713, and 715.; IX.503 and 2701; XI.707, 713, and 715; and XV.341, 485, 486, 487, 492, 712, and 2051 (Log #OS052).

This proposed Rule clarifies notification requirements for ongoing discharges vs. multiple constituent discharges, amends the procedure for notification in the event of a non-

emergency discharge, inserts in the various Environmental Quality regulations the reference to LAC 33:I.Chapter 39 in order to direct all those needing to notify authorities of discharges to the necessary reporting procedures, amends the language "verbal" or "telephone" notification to "prompt" notification, and updates telephone numbers. The table of reportable quantities of unauthorized discharges is updated with corrections and additions, which will promulgate Emergency Rule OS052E1 that was effective on December 10, 2003. The quantities of unauthorized discharges of toxic air pollutants as a result of bypassing emission control devices that warrant notification of authorities are identified. The basis and rationale for this Rule are to clarify that the procedures for responding to unauthorized discharges to the environment are for all media and to make corrections to reporting requirements.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3903. Purpose

A. - A.3. ...

4. to provide the department with the discharge information that shall be used to ensure compliance with permit terms and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

Subchapter B. Requirements for Emergency Notification

§3915. Notification Requirements for Unauthorized Discharges That Cause Emergency Conditions

A. - A.1. ...

2. One notification to the hotline for any unauthorized discharge will suffice for unauthorized discharges that continue for more than one day if the initial notification clearly states that the discharge is expected to continue for more than one day.

3. The hotline must be immediately notified of any adverse change in the nature or rate of the discharge. Additional notifications must be made for discharges of multiple constituents when they originate from different causes or sources or they are substantially different in nature from the discharges in the initial notification.

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2204(A), 2194(C) and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office

of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 30:

Subchapter C. Requirements for Prompt Notification

§3917. Notification Requirements for Unauthorized Discharges That Do Not Cause an Emergency Condition

A. In the event of an unauthorized discharge that exceeds a reportable quantity specified in Subchapter E of this Chapter but that does not cause an emergency condition, the discharger shall promptly notify the department within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance, Surveillance Division Single Point of Contact (SPOC) in accordance with LAC 33:I.3923.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended LR 30:

§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall promptly notify the Office of Environmental Compliance, Surveillance Division SPOC in accordance with LAC 33:I.3923.

B. Dischargers are not relieved from any requisite written notification procedures in LAC 33:I.3925 or of any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2076(D), 2183(I), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:

Subchapter D. Notification Procedures

§3923. Prompt Notification Procedures

A. Prompt notification shall be given to the Office of Environmental Compliance, Surveillance Division SPOC as follows:

1. by the Online Incident Reporting screens found at <http://www.deq.louisiana.gov/surveillance/irf/forms/>;

2. by e-mail utilizing the Incident Report Form and instructions found at <http://www.deq.louisiana.gov/surveillance>;

3. by telephone at (225) 219-3640 during office hours, or at (225) 342-1234 after hours and on weekends and holidays; or

4. for radiation incidents, by telephone at (225) 765-0160.

B. Mobile or marine radio notifications should be directed to the nearest communication center or to a telephone center for forwarding of the notification by telephone.

C. Content of Prompt Notifications. The following guidelines will be utilized as appropriate, based on the conditions and circumstances surrounding any unauthorized discharge, to provide relevant information regarding the nature of the discharge:

1. the name of the person making the notification and the telephone number where any return calls from response agencies can be placed;
2. the name and location of the facility or site where the unauthorized discharge is imminent or has occurred, using common landmarks. In the event of an incident involving transport, include the name and address of the transporter and generator;
3. the date and time the incident began and ended, or the estimated time of continuation if the discharge is continuing;
4. the extent of any injuries and identification of any known personnel hazards that response agencies may face;
5. the common or scientific chemical name, the U.S. Department of Transportation hazard classification, and the best estimate of amounts of any or all discharged pollutants;
6. a brief description of the incident sufficient to allow response agencies to formulate their level and extent of response activity; and
7. for unauthorized emissions of toxic air pollutants listed in LAC 33:III.Chapter 51, Table 51.2 or 51.3 or radioactive material, the following supplemental information:
 - a. the location of the source facility or stack;
 - b. the time at onset of the emission;
 - c. the prevailing local wind direction and estimated wind velocity at the time of onset; and
 - d. the duration of the emission if stopped at the time of notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§3925. Written Notification Procedures

A. Written reports for any unauthorized discharge that requires emergency notification under LAC 33:I.3915.A or prompt notification under LAC 33:I.3917 or 3919 shall be submitted by the discharger to the Office of Environmental Compliance, Surveillance Division SPOC in accordance with this Section within seven calendar days after the notification required by LAC 33:I.3915.A, 3917, or 3919, unless otherwise provided for in a valid permit or other department regulation.

1. ...
2. If delivered by other means (e.g., hand-delivered, faxed, etc.), the submittal date of the written notification will be the date of receipt by the department.

B. Written notification reports shall include, but not be limited to, the following information:

1. the name, address, telephone number, Agency Interest (AI) number (number assigned by the department) if applicable, and any other applicable identification numbers of the person, company, or other party who is filing the written report, and specific identification that the report is the written follow-up report required by this Section;

2. the time and date of prompt notification, the state official contacted when reporting, the name of the person making that notification, and identification of the site or facility, vessel, transport vehicle, or storage area from which the unauthorized discharge occurred;

3. ...

4. details of the circumstances (unauthorized discharge description and root cause) and events leading to any unauthorized discharge, including incidents of loss of sources of radiation, and if the release point is subject to a permit:

- a. the current permitted limit for the pollutant(s) released;
- b. the permitted release point/outfall ID; and
- c. which limits were exceeded (SO₂ limit, mass emission limit, opacity limit, etc.) for air releases;

5. the common or scientific chemical name of each specific pollutant that was released as the result of an unauthorized discharge, including the CAS number and U.S. Department of Transportation hazard classification, and the best estimate of amounts of any or all released pollutants (total amount of each compound expressed in pounds, including calculations);

6. a statement of the actual or probable fate or disposition of the pollutant or source of radiation and what off-site impact resulted;

7. - 11. ...

12. what other agencies were notified;

13. the names of all other responsible parties of which the reporting party is aware;

14. a determination by the discharger of whether or not the discharge was preventable, or if not, an explanation of why the discharge was not preventable;

15. the extent of injuries, if any; and

16. the estimated quantity, identification, and disposition of recovered materials, if any.

C. Written notification reports shall be submitted to the Office of Environmental Compliance, Surveillance Division SPOC by mail or fax. The transmittal envelope and report or fax cover page and report should be clearly marked "UNAUTHORIZED DISCHARGE NOTIFICATION REPORT."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - A.2.b. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
Acetaldehyde	75070	U001	100 ⁺

[See Prior Text in Allyl chloride – Antimony*]			

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
Antimony compounds	20008		100
Barium*	7440393		100
Barium compounds	20020		100
Biphenyl	92524		100
1-Butanol	71363	U031	5000/1000 [@]
Butenes (all isomers except 1,3 butadiene)	25167673		100 ⁺
n-Butyl alcohol	71363	U031	5000/1000 [@]
*** [See Prior Text in Carbonic dichloride]			
Carbonyl sulfide	463581		100
*** [See Prior Text in Chlorinated Dibenzo Furans, all isomers - Chromium ³ *]			
Chromium compounds	20064		100
*** [See Prior Text in Copper ³]			
Copper compounds	20086		100
*** [See Prior Text in Cumene]			
1,3-Dichloropropylene	542756		100
*** [See Prior Text in Ethyl acrylate]			
Ethylene	74851		5000 or 100 ⁺
Ethylene glycol	107211		5000
Glycol ethers **			100
*** [See Prior Text in Hexane - 1,3-Isobenzofurandione]			
Manganese*	7439965		100
Manganese compounds			100
*** [See Prior Text in Methanethiol]			
Methyl acrylate	96333		10
*** [See Prior Text in Methyl ethyl ketone (MEK) - 4-Methyl-2-pentanone]			
Methylene diphenyl isocyanate	101688		1000
*** [See Prior Text in Nitric acid – Propionaldehyde]			
Propylene	115071		100 ⁺
*** [See Prior Text in Strontium sulfide – Thiomethanol]			
Toluene	108883	U220	100 ⁺
*** [See Prior Text in Vinyl acetate - Volatile Organic Compounds not otherwise listed ^d]			
Highly reactive volatile organic compounds listed below: acetaldehyde; butenes (all isomers); ethylene; propylene; toluene; xylene (all isomers); and/or isoprene ⁵			100 ⁺
*** [See Prior Text in F003 - F005, Methyl ethyl ketone]			

Note * - Note⁴ ...

⁵ The combined emission of these highly reactive VOC shall be totaled to determine if a RQ has been exceeded.

Note @ ...

⁺ The RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into the atmosphere for facilities in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:

Subpart 4. Emergency Response Regulations

Chapter 69. Emergency Response Regulations

§6919. Emergency Response Storage Facility

Requirements

A. - A.1. ...

a. Storage of material generated from the abatement and/or cleanup of an off-site emergency condition may be authorized by the administrative authority for up to 90 days. Storage of such material maintained in an emergency response facility shall be in accordance with the requirements in Paragraph A.2 of this Section.

A.1.b. - A.2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), and (15).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:978 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§6923. Characterization of Stored Material

A. The responsible person must determine the character (chemical composition and regulatory status) of any material stored in an emergency response storage facility before the time allowed for storage in accordance with LAC 33:I.6919 has elapsed and prior to any subsequent management activities, except as authorized by the administrative authority.

B. Except as otherwise provided by this Chapter, materials generated from the abatement and/or cleanup of an off-site emergency condition or off-site contamination as a result of a discharge of a pollutant must be managed according to the requirements of all applicable regulations including, but not limited to, LAC 33:V and VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), (14), (15) and 2025.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 22:979 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

Part III. Air

Chapter 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall Not

Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, the Office of Environmental Compliance shall be notified by the

emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:

Chapter 15. Emission Standards for Sulfur Dioxide

§1513. Recordkeeping and Reporting

A. The owner or operator of any facility subject to the provisions of this Chapter shall record and retain at the site for at least two years the data required to demonstrate compliance with or exemption from these provisions. All emissions data shall be recorded in the units of the standard using the averaging time of the standard. These data shall be made available to a representative of the department or the U.S. EPA on request. Compliance data shall be reported to the department annually in accordance with LAC 33:III.918. In addition, quarterly reports of three-hour excess emissions and reports of emergency occurrences in accordance with LAC 33:I.Chapter 39 shall be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:376 (April 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. - I.5. ...

6. records of the type(s) of VOC stored and the length of time stored for any storage tank exempted under Paragraph G.5 of this Section.

7. - 7.b. ...

J. The facility shall provide notice of any use of a storage tank exempted under Paragraph G.5 of this Section. The notice shall be provided to the Office of Environmental Compliance in the manner identified in LAC 33:I.3923.A in advance, if possible, but no later than 24 hours after the tank starts filling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:

§2115. Waste Gas Disposal

Any waste gas stream containing VOC from any emission source shall be controlled by one or more of the applicable methods set forth in Subsections A-G of this Section. This Section shall apply to all waste gas streams located at facilities that have the potential to emit 50 TPY or more of VOC in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge, or 100 TPY or more of VOC in any other parish. This Section does not apply to waste gas streams that must comply with a control requirement, meet an exemption, or are below an applicability threshold specified in another section of this Chapter. This Section does not apply to waste gas streams that are required by another federal or state regulation to implement controls that reduce VOC to a more stringent standard than would be required by this Section.

A. - K.4. ...

L. This Section does not apply to safety relief and vapor blowdown systems where control cannot be accomplished because of safety or economic considerations. However, the emissions from these systems shall be reported to the department as required under LAC 33:III.918. Emergency occurrences shall be reported in accordance with LAC 33:I.Chapter 39.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:960 (November 1990), LR 17:654 (July 1991), LR 18:1122 (October 1992), LR 19:317 (March 1993), LR 22:1212 (December 1996), LR 24:21 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1764 (August 2002), LR 30:

Chapter 23. Control of Emissions for Specific Industries¹

Subchapter B. Aluminum Plants

§2303. Standards for Horizontal Stud Soderberg

Primary Aluminum Plants and Prebake Primary Aluminum Plants

A. - F.1.d. ...

2. Every horizontal stud Soderberg process primary aluminum plant and prebake process primary aluminum plant shall furnish, upon request to the department, such other data as the administrative authority may require to evaluate the plant's emission control program. Such plants shall immediately report any unauthorized emissions of any air contaminants to the Office of Environmental Compliance in accordance with LAC 33:I.3923.

G. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

A. - C.1. ...

a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.

1.b. - 2. ...

a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to the Office of Environmental Compliance, Surveillance Division within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.

C.2.b. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:

Chapter 27. Asbestos-Containing Materials in Schools and State Buildings Regulation

§2719. Operations and Maintenance

A. - F.2.b. ...

c. Provide a prompt notification to the Office of Environmental Compliance of the major fiber release episode in accordance with LAC 33:I.3923 and in writing as specified in LAC 33:I.3925.

d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2344 and 40:1749.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 15:735 (September 1989), amended Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:649 (June 1994), LR 22:699 (August 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), LR 30:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions

A. - B.1. ...

2. Emission Control Bypasses. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, when the emission control bypass was not the result of an upset, and the quantity of the unauthorized bypass is greater than or equal to the lower of the Minimum Emission Rate (MER) in Table 51.1 of this Chapter or a reportable quantity (RQ) in LAC 33:I.3931, or the quantity of the unauthorized bypass is greater than one pound and there is no MER or RQ for the substance in question, the owner or operator of the source shall provide prompt notification to the Office of Environmental Compliance of the bypass no later than 24 hours after the beginning of the bypass in the manner provided in LAC 33:I.3923. Where the emission control bypass was the result of an upset, the owner or operator shall comply with Paragraph B.3 of this Section.

3. Nonemergency Conditions. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge of a toxic air pollutant into the atmosphere that does not cause an emergency condition, the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the reportable quantity in LAC 33:I.3931, the owner or operator of the source shall immediately, but in no case later than 24 hours, provide prompt notification to the Office of Environmental Compliance in the manner provided in LAC 33:I.3923.

B.4. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and 2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2004 (September 2000), LR 26:2460 (November 2000), LR 29:2778 (December 2003), LR 30:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 11. Generators

Subchapter A. General

§1109. Pre-Transport Requirements

A. - E.7.d.iv.(b). ...

(c). in the event of a fire, explosion, or other release that could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the

Office of Environmental Compliance in accordance with LAC 33:I.3923.

7.e. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709 and 716 (May 2001), LR 27:1014 (July 2001), LR 30:

Chapter 19. Tanks

§1913. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements.

A. - C.2. ...

D. Notifications, Reports (LAC 33:V.105.A)

1. Any release to the environment, except as provided in LAC 33:V.1913.D.2, must be reported to the Office of Environmental Compliance in accordance with LAC 33:I.3923 within 24 hours of its detection. If the release has been reported in accordance with LAC 33:V.105.J, that report will satisfy this requirement.

D.2. - F.NOTE ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 13:651 (November 1987), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), LR 30:

Chapter 22. Prohibitions on Land Disposal

Subchapter B. Hazardous Waste Injection Restrictions

§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

A. - T.1. ...

a. notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 within 24 hours of obtaining such evidence;

T.1.b. - Z. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), LR 30:

Chapter 28. Drip Pads

§2805. Design and Operating Requirements

Owners and operators of drip pads must ensure that the pads are designed, installed, and operated in accordance with LAC 33:V.2805.A or C.

A. - N.1.c. ...

d. within 24 hours after discovery of the condition, notify the Office of Environmental Compliance in accordance with LAC 33:I.3923 and, within 10 working days, provide written notice to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925, including a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

N.2. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2482 (November 2000), LR 30:

Chapter 29. Surface Impoundments

§2909. Emergency Repairs; Contingency Plans

A. - B.5. ...

6. notify the Office of Environmental Compliance of the problem in accordance with LAC 33:I.3923 within 24 hours of detection and in writing using the procedures provided in LAC 33:I.3925 within seven days after detecting the problem.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), LR 30:

Chapter 41. Recyclable Materials

§4101. Applicability

A. - C. ...

D. Upon transport of a recyclable material from the generation site and out of the direct control of the generator, the owner of the recyclable material shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 within 24 hours of any determination that the material shall not be used, reused, or recycled. Following such a determination the recyclable material is no longer considered a recyclable material and is fully subject to all requirements of these regulations.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 30:

§4107. Spills

A. Any spill of recyclable material that could possibly endanger human health or adversely affect the environment shall be reported to the department in accordance with LAC 33:I.Chapter 39.

B. - C. ...

D. Whenever a spill of recyclable material occurs that requires immediate removal to protect human health or the

environment, the transporter shall immediately notify the Office of Environmental Compliance in accordance with LAC 33:I.3923.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 30:

Chapter 42. Conditional Exemption for Low-Level Mixed Waste Storage and Disposal

§4211. How Could You Lose the Conditional Exemption for Your LLMW and What Action Must You Take?

A. - A.1.c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance in accordance with LAC 33:I.3923 and submit a written report within five days using the procedures provided in LAC 33:I.3925. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002), amended LR 28:2181 (October 2002), LR 30:

§4241. How Could You Lose the Transportation and Disposal Conditional Exemption for Your Waste and What Actions Must You Take?

A. - A.1.c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance in accordance with LAC 33:I.3923 and submit a written report within five days using the procedures provided in LAC 33:I.3925.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002), amended LR 28:2181 (October 2002), LR 30:

Chapter 53. Military Munitions

§5309. Standards Applicable to the Storage of Solid Waste Military Munitions

A. - A.1.d. ...

e. the owner or operator must provide prompt notice to the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Paragraph A.1 of this Section that may endanger health or the environment. In addition, a written

submission, using the procedures provided in LAC 33:I.3925, describing the circumstances shall be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of Paragraph A.1 of this Section;

A.1.f. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1757 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 30:

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 2. Site Discovery and Evaluation

§201. Site Discovery

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. - B.1.d. ...

2. The department must be notified regardless of whether the contaminants were discovered before or after the effective date of these regulations.

3. The department shall be notified in writing using the procedures provided in LAC 33:I.3925 within 30 calendar days of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site. The date that the department was officially notified shall be determined as follows:

3.a. - 5.f. ...

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made by contacting the Office of Environmental Compliance in the manner provided in LAC 33:I.3923.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2182 (November 1999), amended LR 26:2511 (November 2000), LR 28:1762 (August 2002), LR 30:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§315. Mandatory Provisions

All persons conducting activities regulated under these regulations shall comply with the following provisions.

A. - J. ...

K. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in

contravention of the act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the Office of Environmental Compliance in accordance with LAC 33:I.Chapter 39.

L. ...

M. Notice of Damage to Structures in a Solid Waste Facility. The Office of Environmental Compliance shall be notified in the manner provided in LAC 33:I.3923 when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit.

N. - R.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:

Chapter 7. Solid Waste Standards

Subchapter B. Landfills, Surface Impoundments, Landfarms

§711. Standards Governing Landfills (Type I and II)

A. - D.3.a.iii. ...

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Assessment, Environmental Technology Division for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

iv. The permit holder shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 when strong odors occur at facility boundaries.

D.3.a.v. - F.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:

§713. Standards Governing Surface Impoundments (Type I and II)

A. - D.3.a.iii. ...

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of

Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan must be implemented within 60 days of detection.

iv. The permit holder shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Clause D.3.a.ii of this Section.

D.3.a.v. - F.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:

§715. Standards Governing Landfarms (Type I and II)

A. - D.3.a.iii. ...

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 60 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Assessment, Environmental Technology Division. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule.

iv. The permit holder shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 when strong odors occur at facility boundaries.

D.3.a.v. - F.3.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 5. Enforcement

§503. Investigations

A. Any person may file an oral or written complaint concerning an alleged violation or environmental problem with the Office of Environmental Compliance in the manner provided in LAC 33:I.3923. The complainant may remain anonymous, if desired, and such a request for anonymity shall not be considered as a prejudicial factor in evaluation of the appropriate response to the complaint.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2543 (November 2000), LR 30:

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 27. LPDES Permit Conditions

§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. - L.5. ...

6. Twenty-Four Hour Reporting

a. The permittee shall report any noncompliance that may endanger health or the environment in the manner provided in LAC 33:I.Chapter 39. Any information shall be provided promptly within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

b. - b.iii. ...

c. The state administrative authority may waive the written report on a case-by-case basis for reports under LAC 33:IX.2701.L.6.b if a prompt report under LAC 33:I.3923 has been received within 24 hours.

L.7. - N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 30:

Part XI. Underground Storage Tanks

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§707. Reporting of Suspected Releases

A. All owners, operators, employees, agents, contractors, or assigns having knowledge of any of the conditions listed below shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 within 24 hours after becoming aware of the occurrence or, if they have knowledge of an emergency condition, shall report it immediately in accordance with LAC 33:I.Chapter 39. After discovery of any of the following conditions, owners and operators of UST systems shall follow the procedures specified in LAC 33:XI.711:

1. released regulated substances are discovered at the UST site or in the surrounding area (such as the presence of

free product or vapors in soils, basements, sewer and utility lines, or nearby surface water);

2. unusual operating conditions are observed (such as the erratic behavior of product-dispensing equipment, the sudden loss of product from the UST system, or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced;

3. monitoring results from a release detection method required under LAC 33:XI.703.B and C indicate that a release may have occurred, unless:

a. the monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and additional monitoring conducted within 24 hours does not confirm the initial result; or

b. in the case of inventory control, a second month of data does not continue to indicate a loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:

§713. Reporting and Cleanup of Spills and Overfills

A. Owners and operators of UST systems must contain, immediately clean up, and report a spill or overfill to the Office of Environmental Compliance in accordance with LAC 33:I.3923 within 24 hours. The owner or operator shall begin corrective action in accordance with LAC 33:XI.715 in the following cases.

1. A spill or overfill of petroleum has resulted in a release to the environment that exceeds one barrel (42 gallons) or that causes a sheen on nearby surface water. If the spill or overfill results in an emergency condition, as defined in LAC 33:I.3905, the incident must be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released.

2. A spill or overfill of a hazardous substance has resulted in a release to the environment that equals or exceeds the reportable quantity for that substance in LAC 33:I.3931. If the spill or overfill results in an emergency condition, as defined in LAC 33:I.3905, the incident must be reported in accordance with LAC 33:I.Chapter 39 immediately, but in no case later than one hour, regardless of the amount released. A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center, under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to appropriate authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

B. Follow-up written reports must be submitted within seven calendar days, as required by LAC 33:I.3925. The written report must satisfy the requirements of LAC 33:I.3925.B and C.

C. Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than one barrel and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup

cannot be accomplished within 24 hours, owners and operators must immediately notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:

§715. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

A. - B. ...

1. Report the release to the Office of Environmental Compliance in accordance with LAC 33:I.3923.

2. Take immediate action to prevent any further release of the regulated substance into the environment.

3. Identify and mitigate fire, explosion, and vapor hazards.

C. - C.1.f. ...

2. Within 20 days after release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit a report to the Office of Environmental Compliance, Surveillance Division summarizing the initial abatement steps taken under Paragraph C.1 of this Section and any resulting information or data.

D. - D.1.e. ...

2. Within 60 days of release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit the information collected in compliance with Paragraph D.1 of this Section to the Office of Environmental Assessment, Remediation Services Division in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subparagraph C.1.f of this Section indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Office of Environmental Assessment, Remediation Services Division, while continuing, as necessary, any actions initiated under Subsections B-D of this Section, or preparing for actions required under Subsections F-G of this Section. To meet the requirements of this Subsection, owners and operators must take the following actions.

1. - 3. ...

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Assessment, Remediation Services Division, within 45 days after confirming a release, a free product removal report that provides at least the following information:

E.4.a. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the

Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§341. Reporting Requirements for General and Specific Licenses

A. Immediate Report. Each licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

B. Twenty-Four Hour Report. Each licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 within 24 hours after the discovery of any of the following events involving licensed material:

1. - 4.b. ...

C. Preparation and Submission of Reports. Reports made by licensees in response to the requirements of LAC 33:XV.341 must be made as follows.

1. Licensees shall make reports required by LAC 33:XV.341.A and B to the Office of Environmental Compliance in the manner provided in LAC 33:I.3923. To the extent that the information is available at the time of notification, the information provided in these reports must include:

a. - d. ...

e. any personnel radiation exposure data available.

2. Each licensee who makes a report required by LAC 33:XV.341.A or B shall submit a written follow-up report within 30 days of the initial report to the Office of Environmental Compliance by using the procedures provided in LAC 33:I.3925. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the department. The reports must include the following:

a. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 21:554 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000), LR 30:

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§485. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

A. - A.3. ...

B. Written Reports. Each licensee or registrant required to make a report in accordance with LAC 33:XV.485.A shall, within 30 days after making the telephone report, make a written report to the Office of Environmental Compliance

using the procedures provided in LAC 33:I.3925 and setting forth the following information:

1. - 6. ...

C. Subsequent to filing the written report, the licensee or registrant shall also report to the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 or 3925 additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of such information.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 30:

§486. Notification of Incidents

A. Immediate Notification. Notwithstanding other requirements for notification, each licensee or registrant shall immediately report to the Office of Environmental Compliance in accordance with LAC 33:I.3923 each event involving a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause any of the following conditions:

1. - 2. ...

B. Twenty-Four Hour Notification. Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Office of Environmental Compliance in accordance with LAC 33:I.3923 each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2770 (December 2000), LR 30:

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits

A. Reportable Events. In addition to the notification required by LAC 33:XV.486, each licensee or registrant shall submit a written report to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 within 30 days after learning of any of the following occurrences:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2771 (December 2000), LR 27:1231 (August 2001), LR 30:

§492. Reports of Leaking or Contamination From Sealed Sources

A. The licensee or registrant shall file a report within five days with the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 if the test for leakage or contamination required in accordance with LAC 33:XV.426 indicates a sealed source is leaking or a source of contamination. The report shall include the equipment involved, the test results, and the corrective action taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 30:

Chapter 7. Use of Radionuclides in the Healing Arts **§712. Notifications, Reports, and Records of**

Misadministrations

A. For a misadministration:

1. the licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 no later than the next calendar day after discovery of the misadministration;

2. the licensee shall submit a written report to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 within 15 days after discovery of the misadministration. The written report shall include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the individual who received the administration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the individual, or the individual's responsible relative or guardian (this person will be subsequently referred to as "the individual" in this Section), and if not, why not, and if the individual was notified, what information was provided to the individual. The report shall not include the individual's name or other information that could lead to identification of the individual. To meet the requirements of this Section, the notification of the individual receiving the misadministration may be made instead to that individual's responsible relative or guardian, when appropriate;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), LR 30:

**Chapter 20. Radiation Safety Requirements for
Wireline Service Operations and
Subsurface Tracer Studies**

Subchapter D. Notification

**§2051. Notification of Incidents, Abandonment, and
Lost Sources**

A. The licensee shall immediately notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 and subsequently within 30 days by confirmatory report using the procedures provided in LAC 33:I.3925 if the licensee knows or has reason to believe that a sealed source has been ruptured. The report must designate the well or other location, describe the magnitude and extent of the release of licensed materials, assess the consequences of the rupture, and explain efforts planned or being taken to mitigate these consequences.

B. Whenever a sealed source or device containing radioactive material is lodged downhole, the licensee shall:

1. ...
2. notify the Office of Environmental Compliance immediately in the manner provided in LAC 33:I.3923 if radioactive contamination is detected at the surface or if the source appears to be damaged and provide a follow-up written report to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 within 30 days of detection.

C. - C.1.c. ...

2. notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 giving the circumstances of the loss, and request approval of the proposed abandonment procedures; and

3. file a written report with the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 within 30 days of the abandonment, setting forth the following information:

C.3.a. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:555 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000), LR 29:1473 (August 2003), LR 30:

A public hearing will be held on March 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith Schuerman at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS052. Such comments must be received no later than April 2, 2004, at 4:30 p.m., and should be sent to Judith Schuerman, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314,

Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS052.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Notification Requirements for
Unauthorized Discharges**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation costs or savings to state or local governmental units are expected to result from the proposed Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effects on revenue collections of state or local governmental units are expected to result from the proposed Rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

No costs or economic benefits to directly affected persons or non-governmental groups are expected to result from the proposed Rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No effect on competition or employment is expected to result from the proposed Rule.

James H. Brent, Ph.D.
Assistant Secretary
0402#034

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

**Severe Ozone Nonattainment Area Major Source Fee
(LAC 33:III.209)(AQ238)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.209 (Log #AQ238).

This proposed Rule establishes the methodology for computation of a federally-required fee on major sources in the five-parish Baton Rouge severe ozone nonattainment area. The fee will be assessed on major sources that emit 25 tons per year or more of volatile organic compounds (VOC) or oxides of nitrogen (NO_x) and that are located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. The fee is required by Sections 185 and 182(f) of the Clean Air Act and will be assessed to major sources if the five-parish Baton Rouge ozone nonattainment area fails to achieve attainment with the one-hour ozone air quality standard by November 2005. This proposed rule fulfills a Clean Air Act requirement for the five-parish Baton Rouge ozone nonattainment area under the current classification of severe. The Rule will be included in a revision to the attainment State Implementation Plan (SIP) that must be submitted to the Environmental Protection Agency by June 23, 2004. Failure to promulgate the proposed rule to establish nonattainment area major source fees would cause the SIP submittal to be deemed incomplete. The basis and rationale for this Rule are to satisfy requirements specified in Section 185 and Section 182(f) of the federal Clean Air Act.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§209. Annual Fees

A. ...

B. All parties conducting activities for which the Clean Air Act Amendments of 1990 Section 185 fees apply shall be subject to the payment of such fees by the due date indicated on the invoice. Except as provided for in Paragraph B.1 of this Section, any owner or operator of a major stationary source that is located in the Baton Rouge Severe Nonattainment Area (Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) shall pay a fee in accordance with Paragraph B.3 of this Section beginning in 2007 and in each calendar year thereafter until the Baton Rouge Nonattainment Area achieves attainment with the 1-hour National Ambient Air Quality Standard for ozone (40 CFR 50.9), or until the U.S. EPA revokes the 1-hour ozone standard.

1. Exemptions

a. No major stationary source shall be required to pay fees required by this Subsection for emissions that occur during an extension year granted by the EPA administrator according to Section 181(a)(5) of the Clean Air Act.

b. Any emissions unit that begins initial operation after the attainment year shall not be subject to the requirements of this Subsection.

c. Any emissions unit that meets the *clean emissions unit* criteria shall not be subject to the requirements of the Subsection.

2. Definitions. All terms used in this Section, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act or in other regulations promulgated by the secretary of the department or his predecessor, shall have their usual meanings, except for those terms specifically defined as follows.

Attainment Year? the calendar year that the Baton Rouge Nonattainment Area is required to reach attainment of the 1-hour national ambient air quality ozone standard.

Baseline Amount? the yearly average of the sum of actual volatile organic compounds (VOC) and nitrogen oxides (NO_x) emitted from nonexempt units during any three years from 1998 through 2002. The *baseline amount* shall be determined in accordance with Paragraph B.3 of this Section.

Clean Emissions Unit? an emissions unit that meets one of the following criteria:

i. is equipped with an emission control technology with a minimum control efficiency of at least 95 percent; or

ii. is equipped with emission control technology that meets the requirements for Best Available Control Technology (BACT).

Major Stationary Source? any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of either VOC or NO_x.

3. Baseline Determination. Facilities shall identify the three years that are most representative of normal operations to be used in the calculation of the baseline amount. The identification will be submitted with the annual emissions inventory submitted in accordance with LAC 33:III.919 for the calendar year 2007.

4. Fee Requirements

a. For VOC and NO_x, each major stationary source shall be assessed an annual fee payable to the department in accordance with LAC 33:III.215. The fee shall be calculated as follows:

$$\text{Fee} = [A - (0.8 \times B)] \times C$$

where:

A= the sum of VOC and NO_x emissions in tons per year actually emitted during the previous calendar year.

B= the baseline amount.

C= a fee of \$5000 per ton, adjusted by the Consumer Price Index in accordance with Section 185 of the Clean Air Act, as amended [42 USC 7511d(b)(3)].

b. If the sum of VOC and NO_x emissions (A) is less than or equal to 80 percent of the baseline amount (B), the fee shall be set to zero.

c. By the end of calendar year 2007 and each year thereafter, the department shall assess a fee for emissions in the previous calendar year.

d. By the due date indicated on the invoice and each year thereafter, each facility subject to this Subsection shall remit the assessed fee to the department in accordance with LAC 33:III.215. See LAC 33:III.217 for late payment fees. See LAC 33:III.219 for action taken regarding nonpayment of the fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 30:

A public hearing will be held on March 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the SIP to incorporate this proposed Rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith Schuerman at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ238. Such comments must be received no later than April 2, 2004, at 4:30 p.m., and should be sent to Judith Schuerman, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ238.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Severe Ozone Nonattainment Area Major Source Fee

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Promulgation of this proposed rule establishes the federally-required fees for major industrial sources of ozone-forming emissions located in the Baton Rouge severe ozone nonattainment area. This proposed Rule could result in an estimated increase in state revenues of approximately \$85,000,000 per year (based upon the 2002 annual emissions inventory) beginning at the earliest in 2007, should the Baton

Rouge area fail to achieve the one-hour ozone air quality standard by November 2005.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Should the Baton Rouge nonattainment area fail to achieve the ozone air quality standard by November 2005, estimated fees to be assessed to industry located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge would total approximately \$85,000,000 annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

All major source facilities located in the five-parish nonattainment area would have to comply with the same rules, so competition in the five-parish nonattainment area would not be affected. Competition with facilities located outside the nonattainment area could be affected. Every facility in the nonattainment area would have the option of reducing emissions to avoid or reduce the fee. Some facilities might shut down instead of paying the proposed fees, which would reduce employment.

James H. Brent, Ph.D.
Assistant Secretary
0402#036

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Architectural Examiners

Per Diem Compensation (LAC 46:I.317)

Under the authority of R.S. 37:144(C) and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners (board) gives notice that rule making procedures have been initiated for the amendment of LAC 46:I.317.C pertaining to the compensation which board members receive for discharging their duties and responsibilities. The existing Rule provides that the per diem compensation of board members for discharging their duties and responsibilities shall be \$75 per day. The proposed Rule provides that the per diem compensation of board members for discharging their duties and responsibilities shall be the same as members of the Louisiana legislature. R.S. 24:31 provides that the compensation of the members of the legislature shall be equal to the rate allowable for per diem deduction under §162(h)(1)(B)(ii) of Title 26 of the United States Code for the location of the state capital during their attendance on that body.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 3. Organization

§317. National Council of Architectural Registration Boards

A. - B. ...

C. Effective July 1, 2004, out of the funds of the board each board member shall be compensated equal to the rate of compensation allowable for members of the legislature for each day in attending board meetings and hearings, attending NCARB regional and national meetings, issuing certificates and licenses, necessary travel, and discharging other duties, responsibilities, and powers of the board. In addition, out of

said funds each board member, the executive director, and the board attorney shall be reimbursed reasonable and necessary travel, meals, lodging, clerical, and other incidental expenses incurred while performing the duties, responsibilities, and powers of the boards, including but not limited to performing the aforesaid specific activities.

AUTHORITY NOTE: Promulgated and amended in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:333 (September 1978), amended LR 10:738 (October 1984), LR 12:760 (November 1986), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:732 (September 1989), amended by the Office of the Governor, Board of Architectural Examiners, LR 30:

Interested persons may submit written comments on this proposed Rule to Mary "Teeny" Simmons, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Per Diem Compensation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana State Board of Architectural Examiners associated with this proposed Rule will be approximately \$4,750 for the next fiscal year (2004-2005), and somewhat more for each fiscal year thereafter depending upon inflation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units associated with this proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule would increase per diem payments for board members to the rate paid to members of the legislature.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with this proposed Rule.

Mary "Teeny" Simmons
Executive Director
0402#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Used Motor Vehicle and Parts Commission

Off-Site Displays and Complaints
(LAC 46:V.3606, 3607, and 4501)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts

Commission, proposes to adopt rules and regulations governing Off-Site Displays in accordance with R.S. 32:772 F(8).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission Chapter 36. Motor Vehicle Trade Shows and Off-Site Displays

§3606. Off-Site Displays? Marine Products

A. The commission must approve all off-site displays of new marine products. A request for an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any off-site display must be within the dealer's defined area of responsibility or within his manufacturer's contracted agreement for the make and model to be displayed.

C. The licensee participating in an off-site display of his product is not required to contact all dealers within a 50 mile radius.

D. Each off-site display of marine products is limited to:

1. one marine dealer;
2. nine days and four displays a year. An off-site display will be permitted at the same location every six months.

E. The number of vehicles at any off-site display of marine products will be left to the discretion of the commission, with a maximum of 20 vehicles per licensee, per display.

F. The presence of any sales personnel, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. However, marine products cannot be delivered from that off-site display location.

G. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:775 7(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

H. A licensee must furnish a liability insurance binder to the owner of the off-site property. The same liability binder with the off-site property and owner listed must be furnished to the commission with the Off-Site Display Form.

I. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 (E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:

§3607. Off-Site Displays? Motorcycles, ATV's and RV's

A. The commission must approve all off-site displays of new motorcycles, new ATV's, and new RV's. A request or an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any display must be within the dealer's defined area of responsibility for the make and model to be displayed.

C. Each off-site display is limited to 30 days. However, there will not be a limit on the number of off-site displays allowed per year, per licensee.

D. The number of vehicles at any off-site display will be left to the discretion of the commission, with a maximum of six vehicles per licensee, per display.

E. The presence of any sales personnel, business cards, brochures, pricing sheets, or any other points of sale device will not be allowed and will constitute a violation by the dealer of the laws of the rules and regulations of the commission. A 2' x 3' sign indicating the dealership name, address and telephone number is allowed.

F. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:775(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

G. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 (E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:

Chapter 45. Complaints

§4501. Complaints

A. All forms of complaints made to the commission must be made on the complaint form provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:

Family Impact Statement

The proposed Rules of the Louisiana Used Motor Vehicle and Parts Commission should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rules.

Interested persons may submit written comments no later than 4:30 p.m. on March 20, 2004, to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Off-Site Displays and Complaints

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Neither state nor local revenues will be affected as a result of the proposed Rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change should have a positive impact on sales which will result in an indeterminable increase in revenue to dealers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules on the Off-Site Displays of marine products and motorcycles, ATV's and RV's may have a significant positive impact on competition and employment due to greater exposure of their products to the public. The amendment to the Rule regarding consumer complaints will not affect competition or employment.

John M. Torrance
Executive Director
0402#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Birth Defects Surveillance System
(LAC 48:V.Chapters 161 and 163)

In accordance with the applicable provision of the Administrative Procedure Act R.S. 49:950 et seq. and the Birth Defects Surveillance System R.S. 40:31.41 through 31.48 et seq., notice is hereby given that the Department of Health and Hospitals, Office of Public Health intends to adopt procedures for the surveillance of birth defects for all children under age 3, for provision of information on appropriate follow-up services to families of children identified as having birth defects, and for protection of the confidentiality of information about children who become part of the birth defects registry as well as the privacy of these individuals and their families.

Title 48

PUBLIC HEALTH? GENERAL

Part V. Public Health Services

Subpart 55. Birth Defects Surveillance System

Chapter 161. General Provisions

§16101. Definitions

Advisory Board? the nine-member advisory board of the program.

Birth Defect? an abnormality of structure, function or metabolism that develops during prenatal, perinatal or early postnatal life that is diagnosed before a child reaches 3 years of age.

Case Finding? the process used to identify potential birth defects cases for inclusion into the central registry or central database of the Louisiana Birth Defects Monitoring Network.

CSHS? the Children's Special Health Services Program within the Office of Public Health.

Confidential Information? information collected through the Louisiana Birth Defects Monitoring Network that is private and protected under state and federal laws.

Director? the program director for the Louisiana Birth Defects Monitoring Network.

Department? the Department of Health and Hospitals.

LBDMN? the Louisiana Birth Defects Monitoring Network, which the office will establish to collect information about children with birth defects. The LBDMN is established to carry out the directives of the Louisiana Birth Defects Surveillance System, which was created under Louisiana Revised Statutes 40.31.41-31.48.

Office? the Office of Public Health within the Department of Health and Hospitals.

Registry? the centralized database where data collected through the LBDMN is housed.

Reporting Source? any physician, nurse or allied health professional, hospital, laboratory, and any other facility or agent directly or indirectly responsible for providing medical services to an individual affected by a birth defect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Chapter 163. Program Procedures

§16301. Procedures for Identification and Referral of Children with Birth Defects

A. The program will include the following.

1. Reporting sources required to report pursuant to the rule shall allow personnel from the department or its contractors to abstract information from the mother's and infant's files on their demographic characteristics, family history of birth defects, and outcomes of that and other pregnancies by that mother, according to the case definition used in LBDMN.

2. The chief operating officer, administrator, manager, director, and/or person in charge of each reporting source shall appoint one staff member as a contact person for the LBDMN surveillance activities. That staff member should be responsible for coordinating scheduled visits by LBDMN staff to review logs, discharge indices, and other case-finding sources, and will be responsible for arranging medical records review visits and record management.

3. LBDMN staff and the contact individual at the reporting source shall establish a schedule of case-finding and record review visits. This schedule shall take into account the capabilities of each individual reporting source in responding to data/info requests, as well as the need for timely case-finding and reporting for the LBDMN.

4. Potential cases are obtained/abstracted through review of medical records, logs, indices, appointment rosters, and other records.

5. The original medical records and other materials provided by the reporting source shall not be removed from that facility. Copies and other data should be made in compliance with existing federal and state laws and regulations.

6. The office will require information from a reporting source to be collected on a birth defects reporting form. This may be an electronic or paper form, as determined by LBDMN procedures.

7. The office will maintain a centralized database to include information reported on the birth defects reporting form.

8. The office will notify parents of infants and children identified of available early intervention services in their community.

B. Implementation

1. All reporting sources must comply with Act 194 of 2001 and these rules by July 1, 2004.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§16303. Reporting Requirements

A. The office shall determine the health care facilities and providers which shall be required to report all birth defects, the types of conditions or defects that shall be reported, the type of information that shall be contained in the confidential report and the method for making the report.

B. To ensure an accurate source of data necessary to investigate the incidence, prevalence, and trends of birth defects, a reporting source shall make available to the program staff, office staff, or authorized agent medical records or other information upon request that relates to the occurrence of a birth defect.

C. The department secretary may require, in lieu of active case finding, reporting sources identifying and diagnosing birth defects to report the birth defects to the program within 30 days of diagnosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§16305. Confidentiality

A. Except as specifically authorized by this Chapter, information furnished to a LBDMN employee or to an authorized agent of the office that relates to cases or suspected cases of a birth defect is confidential and may be used only for the purposes outlined in this Chapter.

B. Information relating to individual cases or individual suspected cases of birth defects is not public information and shall not be released or made public except as provided by this Chapter.

C. The LBDMN may release information:

1. for summary reporting purposes, if released without personal identifiers;

2. to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of parishes and municipalities as necessary to comply with this Chapter and board rules relating to the identification, monitoring, and referral of children with birth defects;

3. to appropriate federal agencies, as authorized by law and provided that the information contains no personal identifiers.

D. No reporting source shall be held civilly or criminally liable for conveying confidential information, except in a case of gross negligence or willful misconduct.

E. A board member, the secretary of the department, an employee of the LBDMN or office, or an authorized agent may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of or reports or information about a child identified or monitored for a birth defect without the consent of the child's parents, managing conservator, guardian, or legally authorized representative.

F. All employees or authorized agents of the LBDMN or office given access to medical or registry records shall agree, in writing, to maintain confidentiality of information about children with birth defects and to protect the privacy of individuals and families who become part of the LBDMN registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§16307. Access to Information from the Central Registry

A. The LBDMN or other authorized persons may conduct investigations of cases or suspected cases in the LBDMN registry.

B. Access to the central registry information is limited to LBDMN personnel. Other persons with a valid scientific research interest may be granted access to the information upon approval by program director, the board, and the Department's Institutional Review Board. These persons must satisfy any requirements stipulated by the board, and must receive Institutional Review Board permission to obtain the data.

C. All persons granted access to confidential information and data shall agree, in writing, to maintain confidentiality, and shall be subject to civil penalties and/or internal proceedings and penalties if confidentiality is violated. Penalties may include denial of future access to confidential information.

D. The department and LBDMN shall maintain a listing of each person who is given access to confidential information in the LBDMN registry. The listing is public information and shall be made available to the public during the office's normal hours of operation. The listing shall include:

1. the name of the person authorizing access;
2. the name, title, and organizational affiliation of each person who is granted access;
3. the dates of access;
4. the specific information requested;
5. the specific purpose for which the information was used;
6. results of independent research.

E. Progress reports and reports of findings generated from approved studies shall be submitted to the LBDMN staff and board annually or at the conclusion of the project, if the duration is shorter than 12 months.

F. All persons granted access to LBDMN information and data shall certify the destruction of data at the conclusion of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

§16309. Program Operation

A. The office shall monitor reporting sources for compliance with all sections of this statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.31.48.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:

Family Impact Statement

1. The Effect on the Stability of the Family. Establishing a birth defects surveillance system will have a positive effect on family stability. When investigators detect a birth defects case, information will be provided to the family on how to access health care and other services early in the child's life. This will supply these families with greater resources and support for their unique situation. The surveillance system will have a positive impact on the stability of Louisiana families as a whole by providing critical data for programs to reduce the number of birth defects in the population, therefore reducing the number of infant deaths as well.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Establishing a birth defects surveillance system will have no known impact on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The birth defects surveillance system will have a positive effect on family functioning. Families of children with birth defects will be provided information on how to access health care and social services at no cost, thereby reducing the financial and emotional burden of raising a child with special needs. The system will also serve as a means of early detection of birth defects and developmental disabilities, allowing families to seek services and support as soon as possible in order to maximize their child's potential for learning and development.

4. The Effect on the Family Earnings and Family Budget. Establishing a birth defects surveillance system will have a positive effect on family budgets. Families of children born with birth defects will be directed to health care and social services for early intervention. These no-cost services will decrease the amount spent out-of-pocket on health care, so that a greater percentage of the family earnings can be used for food, clothing, and other items. These cases will be detected early and treated sooner, reducing potential costs to families and state systems for the treatment and rehabilitation of conditions that develop later.

5. The Effect on the Behavior and Personal Responsibility of Children. The birth defects surveillance system is likely to have a positive effect on the behavior and personal responsibility of some children. Children with certain types of birth defects often have behavior problems and learning disabilities that range from mild to severe. Helping affected families access health care, educational and social services as early as possible is likely to result in better developmental and educational outcomes for these children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The operation of the birth defects surveillance system is required and able to be performed at the state government level.

A public hearing on the proposed procedures will be held on March 26, 2004 at 1:00 pm in Room 409, 325 Loyola Avenue, New Orleans, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing. Interested persons may submit written comments to Linda Pippins, Administrator, Children's Special Health Services, DHH/Office of Public

Health, 325 Loyola Ave. Rm. 607, New Orleans, LA 70112
by the close of business on March 29, 2004.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Birth Defects Surveillance System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the implementation of the birth defects surveillance system will result in no increase (or savings) in expenditures for state or local governmental units. The Louisiana Birth Defects Monitoring Network (LBDMN) is currently 100 percent federally funded by a grant from the Centers for Disease Control and Prevention (CDC) of \$201,917. Legislation establishing the LBDMN was passed without funding. Also, the Department of Health and Hospitals/Office of Public Health/Children's Special Health Services program will incur an expense of approximately \$402.60 in FY 2003-2004 funds to pay the Office of the State Register to have the Notice of Intent and the final Rule published in the *Louisiana Register*. This cost will be covered with LBDMN grant funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The birth defects surveillance system is unlikely to affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The birth defects surveillance system will have a positive economic benefit for directly affected persons by improving the overall financial situation of their families. Families of children identified as having birth defects will be provided information on how to access health care and other services at no cost, thus reducing the financial burden of raising a child with special needs. This will allow a greater percentage of income to be used for food, clothing, and other family expenses. Certain non-governmental groups (March of Dimes, Louisiana Folic Acid Council) will benefit by having access to better data for more effective birth defects prevention efforts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that implementing the birth defects surveillance system will have little effect on competition and employment.

Sharon Howard
Assistant Secretary
0402#073

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Hospice
(LAC 50:XV.3101 and 3301)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to amend LAC 50:XV.3101 and 3301 under the Medical Assistance Program as authorized by R.S. 36:254 and

pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Section 9505 of Public Law 99-272 amended Title XIX of the Social Security Act to permit states, at their option, to provide hospice care to individuals eligible for Medicaid. Although hospice care is an optional service under the Medicaid Program, states that do not cover hospice care must provide reimbursement in certain circumstances for specified services provided in conjunction with Medicare hospice care for Medicare/Medicaid eligible individuals who live in Medicaid reimbursed nursing facilities. The bureau established hospice care as a service for recipients living in nursing facilities (*Louisiana Register*, Volume 19, Number 6).

The bureau implemented a pilot project for hospice care under the Medicaid State Plan for persons who are eligible for Medicaid benefits (*Louisiana Register*, Volume 28, Number 6). The bureau now proposes to amend the June 20, 2002 Rule and establish hospice care as an ongoing Medicaid service program.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will improve the family functioning, stability, and autonomy as described in R.S. 49:972, since hospice care is an approach to the delivery of care with attention to the needs of terminally ill persons and their families, and since hospice care will help provide consumer choice and a means for recipients to exercise their autonomy over end-of-life issues.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 31. General Provisions

§3101. Introduction

A. ...

B. The bureau terminates the pilot project for hospice care and establishes hospice as a covered service under the Medicaid State Plan.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:

Chapter 33. Provider Participation

§3301. Conditions for Participation

A. Statutory Compliance

1. Coverage of Medicaid hospice care shall be in accordance with:

a. 42 USC 1396d(o);

b. the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418; and

c. §§4305-4308.2 of the Federal Centers for Medicare and Medicaid Services? *State Medicaid Manual*.

2. The state Medicaid Manual shall be the final authority in cases of conflicting rulings of the authorities listed in Subparagraphs a-c.

B. In order to participate, a hospice shall maintain compliance with the Medicare conditions of participation for hospices as set forth in 42 CFR Part 418.50-418.100 and shall have a valid Medicaid provider agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to the following address: Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 25, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hospice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$136 (\$68 SGF and \$68 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic effect on federal revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Implementation of this proposed rule will continue the availability of Hospice care for terminally ill persons (approximately 1,825) who are eligible for Medicaid benefits. Payments to providers of hospice care (58) will also continue. Implementation of this proposed rule will have an economic benefit to hospice providers as it will continue the coverage of hospice as an optional service under the Medicaid State Plan. Including hospice care under Medicaid will help provide consumer choice and will provide a means for recipients to exercise their autonomy over end-of-life issues.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed action will have no effect on competition and employment.

Ben A. Bearden
Director
0402#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Mental Health Rehabilitation Services
Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations.

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the commissioner of administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to the budgetary shortfall, the bureau reduced the established reimbursement rates for mental health rehabilitation services. The reimbursement is 99.2 percent of the rates (a .8 percent reduction) in effect on September 30, 2003 (*Louisiana Register*, Volume 29, Number 9). The commissioner of administration approved this reduction on September 9, 2003. This Rule is being promulgated to continue the provisions contained in the October 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the established reimbursement rates for mental health rehabilitation services. The reimbursement is 99.2 percent of the rates (.8 percent reduction) in effect on September 30, 2003.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 25, 2004 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mental Health Rehabilitation Services Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in an estimated cost avoidance to the state of \$93,700 for SFY 2003-2004, \$128,822 for SFY 2004-2005 and \$132,686 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will reduce federal revenue collections by \$235,688 for SFY 2003-2004, \$323,818 for SFY 2004-2005 and \$333,533 for SFY 2005-2006. \$102 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the October 1, 2003 Emergency Rule, reduces all established reimbursement rates for mental health rehabilitation services (.8 percent reduction as required by preamble language in the General Appropriation Act of 2003). It is anticipated that implementation of this proposed Rule will reduce reimbursements to mental health rehabilitation providers (approximately 114) by approximately \$329,592 for SFY 2003-2004, \$452,640 for SFY 2004-2005 and \$466,219 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition as a result of the implementation of this proposed Rule. Mental health rehabilitation providers may determine that it is necessary to reduce staff or staff work hours as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0402#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Portable X-Ray Services? Portage Fees
(LAC 50:XIX.4319 and 4335)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby adopts LAC 50:XIX.4319 and 4335 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for x-ray services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau.

The administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau promulgated an Emergency Rule that clarified the billing procedures for specific x-ray services to conform with the HIPAA compliant descriptions (*Louisiana Register*, Volume 29, Number 9). This proposed Rule is being promulgated to continue the provisions contained in the October 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter A. Billing

§4319. X-Ray Equipment Portage Billing

A. Standard Health Care Financing Administration Common Procedure Codes (HCPCS) modifiers shall be used to bill for x-ray portage fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Subchapter B. Reimbursement

§4335. X-Ray Portage

A. Reimbursement shall be as follows for X-ray equipment portage fees when more than one person receives services.

Procedure	Rate
Transportation per patient, per trip, of portable x-ray equipment and personnel to home or nursing home.	\$17.50

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Professional Services Program? Anesthesia Services Reimbursement Reduction

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 25, 2004 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 pm. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Portable X-Ray Services? Portage Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in an estimated cost avoidance to the state of \$303 for SFY 2003-2004, \$556 for SFY 2004-2005 and \$572 for SFY 2005-2006. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will reduce federal revenue collections by \$915 for SFY 2003-2004, \$1,397 for SFY 2004-2005 and \$1,439 for SFY 2005-2006.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the October 1, 2003 Emergency Rule, standardizes reimbursement codes and fees for transportation of portable x-ray equipment to comply with the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II). It is anticipated that implementation of this proposed Rule will decrease payments for x-ray portage fees (to approximately 32 providers) by \$1,422 for SFY 2003-2004, \$1,953 for SFY 2004-2005 and \$2,011 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition and employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0402#078

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for anesthesia services under the Medicaid Program. In September 1992, the Bureau adopted a Rule establishing the reimbursement methodology for anesthesia services (*Louisiana Register*, Volume 18, Number 9). The September 1992 Rule was subsequently amended in April 1997 to clarify the policy governing anesthesia services and to establish policy governing surgery services and reimbursement for designated physician procedure codes (*Louisiana Register*, Volume 23, Number 4).

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The department is required to implement these codes and definitions or face monetary sanctions.

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the commissioner of administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. The commissioner of administration approved this reduction on September 9, 2003. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004.

In compliance with HIPAA requirements, the bureau amended the September 1992 and April 1997 Rules governing the billing procedures for anesthesia services. In compliance with Act 14 of the 2003 Regular Session of the Louisiana Legislature, the bureau reduced the reimbursement rates for anesthesia services to 100 percent of the 2003 Region 99 Medicare payable (*Louisiana Register*, Volume 29, Number 9). This proposed Rule is promulgated

to continue the provisions contained in the October 1, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the September 20, 1992 and April 20, 1997 Rules governing the billing and reimbursement of anesthesia services.

A. Billing. Physicians' Current Procedural Terminology (CPT) procedure codes in the anesthesia section of the CPT and the Health Care Common Procedure Coding System (HCPCS) modifiers shall be used to bill for anesthesia, including maternity-related and pediatric anesthesia.

B. Reimbursement. The reimbursement rates for anesthesia procedures are based on 100 percent of the 2003 Region 99 Medicare payable.

1. Reimbursement for maternity-related anesthesia services shall continue to be a flat fee except for the reimbursement for general anesthesia for a vaginal delivery. This service shall continue to be reimbursed according to base units and time units.

2. Reimbursement for conscious sedation. The CPT conscious sedation codes will be used to bill for services rendered to children up to the age of 13 years when a medically controlled state of depressed consciousness is the preferred method of sedation and the procedure can not be accomplished safely and/or effectively without it.

Reimbursement for conscious sedation shall be at a flat rate.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 25, 2004 at 9:30 am in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Anesthesia Services Reimbursement Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will result in an estimated cost avoidance to the state of \$151,617 for SFY 2003-2004, \$234,511 for SFY 2004-2005 and \$241,546 for SFY 2005-2006. It is anticipated that \$340 (\$170 SGF and \$170 FED) will be expended in SFY 2003-04 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed Rule will reduce federal revenue collections by \$381,377 for SFY 2003-2004, \$589,490 for SFY 2004-2005 and \$607,175 for SFY 2005-2006. \$170 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the October 1, 2003 Emergency Rule, reduces reimbursement rates for anesthesia services (for maternity related and children up to age 13) and amends billing procedures to comply with the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II). It is anticipated that implementation of this proposed Rule will reduce reimbursements to providers of anesthesia services (approximately 1,603) by approximately \$533,334 for SFY 2003-2004, \$824,001 for SFY 2004-2005 and \$848,721 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that there will be no effect on competition or employment as a result of the implementation of this proposed Rule.

Ben A. Bearden
Director
0402#074

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Rehabilitation Reimbursement
(LAC 50:V.30527; XI.303; XV.7101, 7103; and XIX.703)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The bureau also adopted a Rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation centers and outpatient hospital settings in June of 1997 (*Louisiana Register*, Volume 23, Number 6). The bureau adopted a subsequent Rule in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register*, Volume 27, Number 5). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under 3 years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the bureau promulgated an Emergency Rule that increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services (*Louisiana Register*, Volume 28, Number 7). The bureau increased the reimbursement for additional rehabilitation services provided by outpatient hospitals and home health agencies (*Louisiana Register*, Volume 29, Number 4). This proposed Rule is being promulgated to continue provisions contained in the July 6, 2002 and April 21, 2003 Emergency Rules.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals and home health agencies to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3. The new reimbursement rates for rehabilitation services are as follows.

Title 50

PUBLIC HEALTH? MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 3. Outpatient Hospitals

Chapter 305. Reimbursement

Subchapter C. Rehabilitation Services

§30525. Reimbursement (Ages 3 and Above)

Reserved.

§30527. Reimbursement (Ages 0 - 3)

A. The following are reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services.

Proce dure	Rate
Initial speech/language evaluation	\$ 70.00
Initial hearing evaluation	\$ 70.00
Speech/language/hearing therapy, 60 minutes	\$ 56.00
Visit w/procedure(s), 45 minutes	\$ 56.00
Visit w/procedure(s), 60 minutes	\$ 74.00
Visit w/procedure(s), 90 minutes	\$112.00
Procedures and modalities, 60 minutes	\$ 74.00
Physical therapy and rehab evaluation	\$ 75.00
Initial occupational therapy evaluation	\$ 70.00
Occupational therapy, 45 minutes	\$ 45.00
Occupational therapy, 60 minutes	\$ 60.00
Physical therapy, 1 modality	\$ 37.00
Physical therapy, 2 or more modalities	\$ 56.00
Physical therapy, 1 or more procedures, and/or modalities, 15 minutes	\$ 18.50
Physical therapy w/procedures, 30 minutes	\$ 37.00
Physical therapy w/procedures, 75 minutes	\$ 92.50

Occupational therapy, 15 minutes	\$ 15.00
Occupational therapy, 30 minutes	\$ 30.00
Speech and hearing therapy, 15 minutes	\$ 14.00
Speech and hearing therapy, 30 minutes	\$ 28.00
Speech and hearing therapy, 45 minutes	\$ 42.00
Speech and hearing therapy, 60 minutes	\$ 56.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Part XI. Clinic Services

Subpart 1. Rehabilitation Clinics

Chapter 3. Reimbursement

§301. Reimbursement (Ages 3 and Over)

Reserved.

§303. Reimbursement (Ages 0 - 3)

A. Effective for dates of service on or after November 2 2003, the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services, will be as follows.

Procedure	Rate
Group sp lang hear therapy 1/2 hour	\$ 26
Speech group therapy add 15 minutes	\$ 13
Group sp lang hear therapy 1 hour	\$ 51
Initial sp/lang evaluation	\$ 70
Initial hearing evaluation	\$ 70
Sp/lang/hear therapy 30 minutes	\$ 26
Sp/lang/hear therapy 45 minutes	\$ 39
Sp/lang/hear therapy 60 minutes	\$ 52
Visit w/procedure(s) 30 minutes	\$ 34
Visit w/procedure(s) 45 minutes	\$ 51
Visit w/procedure(s) 60 minutes	\$ 68
Visit w/procedure(s) 75 minutes	\$ 85
Visit w/procedure(s) 90 minutes	\$102
Ctr visit one/more modal/proc 15 minutes	\$ 17
Procedures and modalities 60 minutes	\$ 68
Pt and rehab evaluation	\$ 75
Initial ot evaluation	\$ 70
Ot 30 minutes	\$ 26
Ot 45 minutes	\$ 39
Ot 60 minutes	\$ 52

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 71. Rehabilitation Services

§7101. Reimbursement (Ages 3 - 21)

A. Medically necessary physical therapy, occupational therapy, and speech therapy required for maintenance of optimum functional levels shall be reimbursed under the EPSDT health services program when such services are rendered to Medicaid-eligible recipients ages 3 through 21. Prior authorization for these services shall be required and a determination of medical necessity shall be made by the Bureau of Health Services Financing prior to approval.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 30:

§7103. Reimbursement (Ages 0 - 3)

A. Effective for dates of services on or after July 4, 2003, rehabilitation service reimbursement rates for Medicaid recipients ages 0 up to 3 provided by EPSDT health services providers will be as follows, regardless of the type of provider performing the services.

Procedure	Rate
Electrical stimulation	\$ 17
Physical therapy-one area—therapeutic-30 minutes	\$ 17
Physical therapy-neuromuscular reed-30 minutes	\$ 17
Physical therapy-gait training-30 minutes	\$ 34
Orthotic training	\$ 14
Kinetic act one area-30 minutes	\$ 14
Physical performance test	\$ 14
Physical therapy evaluation/re-evaluation	\$ 92
Occupational therapy evaluation/re-evaluation	\$ 70
Speech/language evaluation/re-evaluation	\$ 70
Speech/language therapy—30 minutes	\$ 26
Speech/language therapy-add 15 minutes	\$ 13
Group speech/language/hearing therapy—30 minutes	\$ 26
Speech group therapy—20 minutes	\$ 13
Speech group therapy—add 15 minutes	\$ 13
Group Speech/language/hearing therapy—1 hour	\$ 52
Speech/language/hearing therapy—20 minutes	\$ 17
Speech/language/hearing therapy—1 hour	\$ 52
Procedures and modalities—30 minutes	\$ 34
Procedures and modalities—45 minutes	\$ 52

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Part XIX. Other Services

Subpart 1. Home Health

Chapter 7. Rehabilitation Services

§701. Reimbursement (Ages 3 and Above)

Reserved.

§703. Reimbursement (0 - 3)

A. The following rehabilitation services are reimbursed under Medicaid as a home health service by a home health agency rendered to Medicaid-eligible recipients ages 0 up to age 3 regardless of the type of provider performing the services.

Procedure	Rate
Initial speech/language evaluation	\$ 70.00
Initial hearing evaluation	\$ 70.00
Speech/language/hearing therapy, 60 minutes	\$ 56.00
Visit w/procedure(s), 45 minutes	\$ 56.00
Visit w/procedure(s), 60 minutes	\$ 74.00
Visit w/procedure(s), 90 minutes	\$112.00
Procedures and modalities, 60 minutes	\$ 74.00
Physical therapy and rehab evaluation	\$ 75.00
Initial occupational therapy evaluation	\$ 70.00
Occupational therapy, 45 minutes	\$ 45.00
Occupational therapy, 60 minutes	\$ 60.00
Physical therapy, 1 modality	\$ 37.00
Physical therapy, 2 or more modalities	\$ 56.00
Physical therapy, 1 or more procedures, and/or modalities, 15 minutes	\$ 18.50
Physical therapy w/procedures, 30 minutes	\$ 37.00

Physical therapy w/procedures, 75 minutes	\$ 92.50
Occupational therapy, 15 minutes	\$ 15.00
Occupational therapy, 30 minutes	\$ 30.00
Speech and hearing therapy, 15 minutes	\$ 14.00
Speech and hearing therapy, 30 minutes	\$ 28.00
Speech and hearing therapy, 45 minutes	\$ 42.00
Speech and hearing therapy, 60 minutes	\$ 56.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, March 25, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Rehabilitation Reimbursement

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$450,461 for SFY 2002-2003, \$463,964 for SFY 2003-2004 and \$477,603 for FY 2004-2005. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$1,104,998 for SFY 2002-2003, \$1,165,857 for SFY 2003-2004, and \$1,200,553 for SFY 2004-2005. \$272 is included in SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule is being promulgated to continue provisions contained in the July 6, 2002 and April 21, 2003 Emergency Rules relative to increased reimbursement rates for certain rehabilitation procedures (occupational, physical and speech therapies) provided to children (approximately 3,500) under three years of age. It is anticipated that

implementation of this proposed Rule will increase expenditures for rehabilitation services by \$1,555,459 for SFY 2002-2003, \$1,629,277 for SFY 2003-2004, and \$1,678,156 for SFY 2004-2005.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this Rule will not have an effect on competition and employment.

Ben A Bearden
Director
0402#077

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Telephone Use and Policy on Monitoring of Calls? Juvenile (LAC 22:I.314)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend LAC 22:I.314 to change the manner of assigning personal identification numbers to juveniles for placement of telephone calls from the institutions.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§314. Telephone Use and Policy on Monitoring of Calls? Juvenile

A - C. ...

D. Procedures

1. General

a. Each juvenile will be assigned a personal identification number (PIN), which must be used when placing outgoing telephone calls. The PIN will be the juvenile's JIRMS number.

b. - 5.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 29:360 (March 2003), amended LR 29:2848 (December 2003), LR 30:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

The amendment of 22:I.314, *Telephone Use and Policy on Monitoring of Calls? Juvenile*, by the Department of Public Safety and Corrections, Corrections Services, will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal

responsibility of children, or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Department of Public Safety and Corrections, P.O. Box 94304, Capitol Station, Baton Rouge, LA 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m., on March 20, 2003.

Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Telephone Use and Policy on Monitoring of Calls? Juvenile

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no estimated costs associated with this Rule amendment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits directly affecting persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Robert Barbor
Deputy General Counsel
0402#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Exemption for Ships and Ships' Supplies (LAC 61:I.4403)

Under the authority of R.S. 47:305.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4403 relative to the exemption for ships and ships' supplies.

These proposed amendments are necessary due to changes made to R.S. 47:305.1 by Acts 40 and 41 of the 2002 Regular Legislative Session and legal jurisprudence since the Rule's adoption. These proposed amendments supersede any previously issued internal Policy and Procedure Memoranda or other oral or written instructions issued to taxpayers.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 44. Sales and Use Tax Exemptions

§4403. Ships and Ships' Supplies

A. To qualify for exemption under R.S. 47:305.1(A), *materials*, machinery, and equipment that become component parts of *ships, vessels, or barges* of 50 tons *load displacement* and over, built in Louisiana, must be added during construction or reconstruction. *Materials*, machinery, and equipment that replace worn components are not exempt under R.S. 47:305.1(A).

B. Reconstructions qualify for exemption under R.S. 47:305.1(A) if they:

1. modify the craft's function, such as conversion of a deck *barge* to a crane *barge*; or

2. restore the craft to seaworthiness following its destruction by sinking, collision, or fire.

C.1. For the purposes of the exemption provided in R.S. 47:305.1(B), vendors may assume that *ships' supplies and materials* delivered to the dock will be loaded upon the vessel for use or consumption in the maintenance of the vessel.

2. The exemption provided in R.S. 47:305.1(B) for repair services performed upon *ships* and *vessels* operating exclusively in foreign or interstate coastwise *commerce* also applies to component parts removed from those *ships, vessels, or barges* and repaired elsewhere.

D. For the purposes of the exemption granted under R.S. 47:305.1, the following definitions apply:

Commerce? the transporting of goods or persons by *ship, vessel, or barge* exclusively to carry on a trade or business.

Load Displacement? the weight of the volume of water displaced by a *ship, vessel, or barge* when loaded to its maximum capacity.

Owner or Operator? any person who has title to, possession of, or control over the operation of any *ship, vessel, or barge* defined in R.S. 47:305.1.

Ship, Vessel, or Barge? any craft used primarily for transporting persons or property by water, or any craft designed or altered to perform specialized marine-related services, such as dredging, fleeting, geological surveying, cargo transferring, and which possesses all of the following characteristics:

- a. performs its services in navigable waters;
- b. is capable of being moved by floatation from one location to another in navigable waters; and
- c. is registered as a vessel with the United States Coast Guard or is eligible for registration.

Ships' Supplies and Materials? all tangible personal property loaded on and used or consumed in the maintenance or operation of a *ship, vessel, or barge* and its crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987). Amended by Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, March 26, 2004. A public hearing will be held on Tuesday, March 30, 2004, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Exemption for Ships and Ships' Supplies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There would be no implementation costs or savings to state or local authorities for this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no impact on state or local sales tax revenues as a result of this proposed amendment, which implements the amendments to R.S. 47:305.1 enacted by Acts 2002, Nos. 40 and 41 and judicial interpretations of the statute. However, it was estimated that Acts 2002, Nos. 40 and 41, which amended the definition of "foreign or interstate coastwise commerce," resulted in a significant although indeterminable state and local sales and use tax revenue loss at least in the short-run.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no economic costs or benefits to builders of ships of 50 tons load displacement and over and vendors that sell to vessels engaged in foreign or interstate commerce. These amendments only reflect the changes that have been made to R.S. 47:305.1 by Acts 2002, Nos. 40 and 41 and court rulings involving the statute.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on employment or competition between in-state builders of vessels of 50 tons load displacement and vendors that sell to vessels operating in foreign or interstate commerce. However, this sales tax relief may make this industry more competitive on an interstate basis.

Cynthia Bridges
Secretary
0402#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Issuance and Cancellation of a Lien; Fees
(LAC 61:I.5302)

Under the authority of R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.5302 relative to the release of real property from the effect and operation of the recorded lien in cases where the tax, penalty, or interest secured by the lien has not been paid.

The amendment conforms LAC 61:I.5302.C.3 to R.S. 47:1578(B)(2), by providing that the Secretary of Revenue may release any real property from the lien when the value of the tax debtor's remaining real property upon which the lien will remain is at least equal to the amount of the remaining tax obligation, including penalties, interest, and costs plus the amount of all liens upon the remaining real property that have priority over the state tax lien.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. - C.2. ...

3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the remaining property. This provision is subject to approval by the Board of Tax Appeals;

C.4. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed amendment will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed amendment will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed amendment will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed amendment will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of this proposed amendment will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Policy Services Division, 617 North Third Street, Baton Rouge, LA 70802-5428 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m. Monday, March 29, 2004. A public hearing will be held Tuesday, March 30, 2004 at 10 a.m. in the River Room, 7th Floor, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridge
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Issuance and
Cancellation of a Lien; Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed amendment to LAC 61:I.5302 will correct an error in Paragraph C.3 to conform with the language in R.S. 47:1578(B)(2). Implementation of this proposed amendment will have no estimated costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed amendment will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed amendment will have no effect on costs for taxpayers seeking release from tax liens.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment will have no effect on competition or employment.

Cynthia Bridges
Secretary
0402#012

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Manufactured and Mobile Home Settlement Fund Administration (LAC 61:I.4313)

Under the authority of Act 1212 of the 2001 Regular Legislative Session and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to repeal LAC 61:I.4313, which established procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

Act 1212 of the 2001 Regular Legislative Session provided for the payment of settlements from lawsuits against the state related to the state sales and use taxes collected on purchases of manufactured and mobile homes. It also created the Manufactured and Mobile Home Settlement Fund to provide for the payment of claims filed by purchasers who were not a party to the lawsuits on manufactured and mobile home purchases between January 1, 1998, and June 30, 2001. The Secretary of Revenue adopted LAC 61:I.4313 to carry out the act's provisions. Effective September 2003, all settlements and claims had been paid and all monies in the Manufactured and Mobile Home Settlement Fund had been expended in accordance with Act 1212. Therefore, the regulation is obsolete and is being repealed.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4313. Administration of Claims Against the Manufactured and Mobile Home Settlement Fund as Required by Act 1212 of the 2001 Regular Legislative Session

Repealed.

AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:2261 (December 2001), repealed LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Friday, March 26, 2004. A public hearing will be held on Tuesday, March 30, 2004, at 1:30 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Manufactured and Mobile Home Settlement Fund Administration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There would be no implementation costs or savings to state or local authorities from this proposed repeal of LAC 61:I.4313.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this proposed repeal of LAC 61:I.4313.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed repeal of LAC 61:I.4313 will have no economic costs or benefits to any persons or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed repeal of LAC 61:I.4313 will have no effect on competition or employment.

Cynthia Bridges
Secretary
0402#011

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Suspension, Revocation, or Denial of Hunting and Fishing Licenses (LAC 61:I.1351)

Under the authority of R.S. 47:296.3 and 1511 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1351 pertaining to the suspension, revocation, or denial of the issuance of hunting and fishing licenses for failure to pay individual income tax.

Revised Statute 47:296.3, entitled "Suspension, Revocation, or Denial of Hunting and Fishing Licenses," provides a mechanism for suspending, revoking, and denying the issuance of a taxpayer's hunting and fishing licenses if the Department of Revenue has a final and nonappealable assessment or judgment against an individual in excess of \$500. This proposed regulation provides the procedures necessary to administer the provisions of this statute.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 13. Income: Individual

§1351. Suspension, Revocation, and Denial of Hunting and Fishing Licenses

A. An individual's hunting and fishing licenses will be suspended, revoked, or denied if the Department of Revenue has a final and nonappealable individual income tax assessment or judgment against the individual in excess of \$500 exclusive of penalty, interest, costs, and other charges.

B. Exceptions

1. If the taxpayer has filed for bankruptcy, then the provisions of this regulation will not apply.

2. An assessment or judgment will not be considered final and nonappealable for purposes of this regulation if, for the applicable tax period:

- a. the taxpayer is in litigation with the department;
- b. the taxpayer is being audited by the department;

or

- c. correspondence is pending.

C. Responsibilities

1. The Department of Revenue is responsible for the following:

- a. properly identifying the affected taxpayer;
- b. accurately notifying the Department of Wildlife and Fisheries of the taxpayer's identity; and
- c. timely notifying the Department of Wildlife and Fisheries if the taxpayer pays the assessment or judgment and regains eligibility for a hunting or fishing license.

2. The Department of Wildlife and Fisheries is responsible for the following:

- a. suspending, revoking or denying hunting and fishing licenses once notified of a taxpayer's identity by the Department of Revenue; and

b. issuing or re-issuing hunting and fishing licenses to taxpayers who have paid their tax debts once notified of this fact by the Department of Revenue.

D. Taxpayer Notification

1. Before the notice of hunting and fishing licenses suspension, revocation, or denial is sent to the Department of Wildlife and Fisheries, the taxpayer will be mailed written notice.

2. The notice will inform the taxpayer that his hunting and fishing licenses will be suspended, revoked, or issuance denied until full payment of the final and nonappealable assessment or judgment is made or until the taxpayer enters into an installment agreement with the Department of Revenue.

3. The notice will be mailed to the address on record and it will be presumed that the taxpayer has received the notice if it is not returned as "Undeliverable."

4. If a taxpayer defaults on a department authorized installment payment plan, no further notice of suspension, revocation, or denial of the issuance of the taxpayer's hunting and fishing licenses will be required.

E. Notification to the Department of Wildlife and Fisheries

1. The Department of Revenue will notify the Department of Wildlife and Fisheries of the name, social security number, and address of the taxpayer for whom the hunting and fishing licenses are required to be suspended, revoked, or issuance denied.

2. The suspension and revocation will remain in effect until the Department of Wildlife and Fisheries is notified otherwise by the Department of Revenue.

3. The Department of Revenue will notify the Department of Wildlife and Fisheries of the name, social security number, and address of the taxpayer for whom the hunting and fishing licenses are to be issued or re-issued.

4. Notifications may be by secured electronic transmission or by magnetic tapes, cartridges, or other electronic media.

5. Notifications will be made weekly unless circumstances warrant a more frequent time schedule, such as the circumstances described in Subsection E.

F. If the taxpayer pays the assessment or judgment in person, notice will be given to the Department of Wildlife and Fisheries to remove the suspension, revocation, or denial of the taxpayer's hunting and fishing licenses from their records. Notice to the Department of Wildlife and Fisheries will be effected as follows:

1. Department of Revenue personnel may fax a clearance to the Department of Wildlife and Fisheries indicating that the assessment or judgment has been paid; or

2. a letter from the secretary or the secretary's designee indicating that the assessment or judgment has been paid may be issued to the taxpayer for presentation to the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:296.3 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact

Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed amendment will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed amendment will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed amendment will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed amendment will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of this proposed amendment will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Jennifer Davis, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, March 29, 2004. A public hearing will be held on Wednesday, March 30, 2004, at 11 a.m. in the River Room Conference Room on the 7th Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Suspension, Revocation, or Denial of Hunting and Fishing Licenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Acts 2003, No. 380 enacted R.S. 47:296.3, entitled "Suspension, revocation, or denial of hunting and fishing licenses," to provide a mechanism for suspending, revoking, and denying the issuance of a taxpayer's hunting and fishing

licenses if the Department of Revenue has a final and nonappealable assessment or judgment against an individual in excess of \$500. This proposed regulation provides the procedures necessary to administer the provisions of the statute.

Implementation of this proposed regulation will result in first-year computer programming costs for the Department of Revenue and the Department of Wildlife and Fisheries of \$35,000 and \$2,000, respectively. Succeeding years' costs for both agencies should be negligible.

There will be no implementation costs for local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed regulation may result in an indeterminable increase in state general funds due to the payment of delinquent tax collections and an indeterminable decrease in revenues to the Conservation Fund due to the denial of licenses.

According to Department of Revenue records, there are 57,000 taxpayers that would be denied hunting and fishing licenses for tax debts of \$204 million. However, it is not known how many of the tax delinquents will seek hunting or fishing licenses or if the denial of these licenses will motivate taxpayers to pay the delinquent taxes owed.

The reduction of revenues to the Conservation Fund due to the denial of hunting and fishing licenses cannot be determined. According to the Department of Wildlife and Fisheries, 8.3 percent of Louisiana residents purchase hunting licenses at a cost of \$15 to \$61; 22 percent of Louisiana residents purchase basic or saltwater fishing licenses at a cost of \$9.50 or \$15, respectively; and 0.4 percent of Louisiana residents purchase commercial fishing licenses at a cost of \$55. If all of the tax debtors elected to forego their hunting and fishing licenses rather than pay their tax debts, revenues to the Conservation Fund would be reduced by an unknown amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed regulation allows for suspending, revoking, and denying the issuance of a taxpayer's hunting and fishing licenses if the Department of Revenue has a final and nonappealable assessment or judgment against an individual in excess of \$500. These tax debtors will be directly affected by this regulation. There will be no economic benefit to the affected tax debtors but their costs may increase to the extent that they will be required to pay their debts before a hunting or fishing license can be reinstated or issued.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation will have no effect on competition or employment.

Cynthia Bridges
Secretary
0402#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office